

<p style="text-align: right;">Page 1</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>----- X EDWARD CARTER, FRANK FIORILLO,) KEVIN LAMM, JOSEPH NOFI, and) THOMAS SNYDER,) Plaintiffs,) -against-) Index No. CV 07 1215</p> <p>INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR JOSEPH C. LOEFFLER, JR., individually) and in his Official capacity;) former mayor NATALIE K. ROGERS,) individually and in her) official capacity; OCEAN BEACH) POLICE DEPARTMENT; ACTING) DEPUTY POLICE CHIEF GEORGE B.) HESSE, individually and in his) official capacity; SUFFOLK) COUNTY; SUFFOLK COUNTY POLICE) DEPARTMENT OF CIVIL SERVICE;) and ALLISON SANCHEZ,) individually and in her) official capacity,) Defendants.) ----- X DEPOSITION OF GEORGE HESSE Uniondale, New York June 3, 2009</p> <p>Reported by: Judi Johnson, RPR, CRR, CLR Job No.: 23057</p>	<p style="text-align: right;">Page 3</p> <p>1 GEORGE HESSE 2 APPEARANCES: 3 THOMPSON WIGDOR & GILLY, LLP 4 Attorneys for the Plaintiffs 5 85 Fifth Avenue 6 New York, New York 10003 7 8 BY: ANDREW S. GOODSTADT, ESQ. 9 ARIEL GRAFF, ESQ. 10 11 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 12 Attorneys for GEORGE B. HESSE 13 530 Saw Mill Road 14 Elmsford, New York 10523 15 16 BY: KEVIN W. CONNOLLY, ESQ. 17 18 RIVKIN RADLER, LLP 19 Attorneys for INCORPORATED VILLAGE OF OCEAN BEACH, 20 JOSEPH LOEFFLER, NATALIE ROGERS AND OCEAN BEACH 21 POLICE DEPARTMENT 22 926 RexCorp Plaza 23 Uniondale, New York 11556-0926 24 25 BY: KENNETH A. NOVIKOFF, ESQ. MICHAEL WELCH, ESQ.</p>
<p style="text-align: right;">Page 2</p> <p>1 2 926 RexCorp Plaza Uniondale, New York 3 4 June 3, 2009 10:00 A.M. 5 6 7 8 9 10 11 12 13 Deposition of GEORGE HESSE, held at 14 the offices of RIVKIN RADLER, LLP, 926 15 RexCorp Plaza, Uniondale, New York, pursuant 16 to Notice, before Judi Johnson, a Registered 17 Professional Reporter, a Certified Realtime 18 Reporter, a Certified LiveNote Reporter and 19 Notary Public of the State of New York. 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 GEORGE HESSE 2 3 4 5 BEE READY FISHBEIN HATTER & DONOVAN, LLP 6 Attorneys for SUFFOLK COUNTY 7 170 Old Country Road 8 Mineola, New York 11501 9 10 BY: KENNETH A. GRAY (A.M. SESSION ONLY) 11 12 13 SUFFOLK COUNTY DEPARTMENT OF LAW 14 Attorneys for the County 15 100 Veterans Memorial Highway 16 Hauppauge, New York 11788 17 18 BY: BRIAN P. CALLAHAN, ESQ. 19 20 ALSO PRESENT: 21 STEVE SAN PIETRO - LEGAL VIDEO SPECIALIST 22 FRANK FIORILLO 23 KEVIN LAMM - AM SESSION ONLY 24 ED CARTER - AM SESSION ONLY 25 TOM SNYDER</p>

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GEORGE HESSE

IT IS HEREBY STIPULATED AND AGREED by
and between the attorneys for the respective
parties herein, that filing and sealing and
the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be sworn to
and signed before any officer authorized to
administer an oath, with the same force and
effect as if signed and sworn to before the
Court.

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GEORGE HESSE

GEORGE HESSE,

Called as a witness herein, having
first been duly sworn, was examined and
testified as follows:

BY THE REPORTER:

**Q Please state your name and address for
the record.**

A George Hesse, 623 Bay Walk, P.O. Box
425, Ocean Beach, New York 11770.

THE VIDEOGRAPHER: This is the start 10:04:10AM
of the tape labeled Number 1 of the
videotaped deposition of George Hesse in the
matter of Carter Fiorello, et al versus the
Incorporated Village of Ocean Beach. This
deposition is taking place at 926 RexCorp
Plaza, Uniondale, New York on Wednesday,
June the 3rd, 2009 at approximately
10:04 a.m.

My name is Steve San Pietro from TSG, 10:04:37AM
and I am the legal video specialist. The
court reporter today is Judi Johnson in
association with TSG Reporting.

Will counsel please introduce 10:04:47AM
yourselves for the record.

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GEORGE HESSE

MR. GOODSTADT: Andrew Goodstadt, 10:04:50AM
Thompson Wigdor & Gilly, on behalf of the
plaintiffs. And with me is Ariel Graff,
G-R-A-F-F, from my office.

MR. CONNOLLY: Kevin W. Connolly of 10:05:05AM
Marks, O'Neil, O'Brien & Courtney, counsel
for the defendant Hesse.

MR. NOVIKOFF: Ken Novikoff, Rivkin 10:05:12AM
Radler, on behalf of all the village
defendants and Mayor Rogers, Mayor Loeffler
in their official and individual capacities.
With me is Michael Welch from my office.

MR. CALLAHAN: Brian Callahan from the 10:05:23AM
office of Christine Malafi for the County of
Suffolk, Suffolk County PD and Allison
Sanchez.

EXAMINATION 10:05:30AM

BY MR. GOODSTADT: 10:05:36AM

Q Good morning, Mr. Hesse. 10:05:41AM

A Good morning. 10:05:42AM

Q My name is Andrew Goodstadt Thompson. 10:05:43AM
I'm an attorney at the law firm of Thompson,
Wigdor & Gilly, and my firm represents the
plaintiffs in this matter, Frank Fiorillo, Ed

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GEORGE HESSE

Carter, Kevin Lamm, Tom Snyder and Joe Nofi.
And we're here today to ask you some questions
about the allegations in the complaint.

What is your current address? 10:06:00AM

A My current address, my official 10:06:03AM
address is 315 Bay Walk, P.O. Box 371 Ocean
Beach, New York 11770.

Q What do you mean by official address? 10:06:15AM

A I also have a second residence of 10:06:17AM
191 The Helm, East Islip, New York 11730.

Q And which address do you live at? 10:06:26AM

A I mostly live at 191 The Helm, and I 10:06:29AM
do sleep at my apartment in Ocean Beach.

Q How many days a year do you -- 10:06:37AM
approximately, do you sleep at The Helm versus
your Ocean Beach residence?

A I'd say the majority of the year. 10:06:43AM
Most of the summer, I stay in Ocean Beach.

Q And when did you start living at Ocean 10:06:53AM
Beach during the summers?

A About, I'd say, three years ago I 10:06:57AM
started staying weekends at the beach.

Q Who else lives with you at that 10:07:08AM
address at the beach?

2 (Pages 5 to 8)

Page 9

1 **GEORGE HESSE**
2 A It's a shared address. It's the Ocean 10:07:11AM
3 Beach police barracks, and I have a room within
4 the barracks.
5 **Q Anyone else live there? 10:07:18AM**
6 A There are other police officers that 10:07:20AM
7 do stay overnight there, but I wouldn't say they
8 live there.
9 **Q Would you say that you live there? 10:07:26AM**
10 A No, but it's one of my official 10:07:28AM
11 addresses.
12 **Q Why do use that as an official address 10:07:32AM**
13 **if you don't live there?**
14 MR. NOVIKOFF: Objection. 10:07:36AM
15 MR. CONNOLLY: Objection. 10:07:37AM
16 MR. NOVIKOFF: Argumentative. 10:07:39AM
17 A It's on my driver's license. That's 10:07:40AM
18 where I vote. That's where I'm registered to
19 vote. That's my legal address.
20 **Q Do you pay taxes out of there? 10:07:45AM**
21 A No. 10:07:47AM
22 MR. NOVIKOFF: Objection. Vague. 10:07:48AM
23 BY MR. GOODSTADT: 10:07:49AM
24 **Q What address do you pay taxes from? 10:07:51AM**
25 MR. NOVIKOFF: Objection. 10:07:54AM

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1 **GEORGE HESSE**
2 A I don't. 10:07:54AM
3 **Q You don't pay taxes? 10:07:54AM**
4 A Of course I pay taxes. 10:07:57AM
5 MR. CONNOLLY: Andrew, what do you -- 10:08:00AM
6 BY MR. GOODSTADT: 10:08:02AM
7 **Q What address do you list on your tax 10:08:02AM**
8 **returns?**
9 MR. NOVIKOFF: Oh, okay. 10:08:05AM
10 A In Ocean Beach. 10:08:07AM
11 **Q And who lives at the 191 The Helm 10:08:13AM**
12 **address?**
13 A My wife, my two children, my father 10:08:16AM
14 and his girlfriend.
15 **Q What's your wife's name? 10:08:25AM**
16 A Shannon. 10:08:26AM
17 **Q What are your children's ages? 10:08:28AM**
18 A My daughter Lauren is 12. Megan is 10:08:30AM
19 eight.
20 **Q And your father's name is? 10:08:37AM**
21 A Dan. 10:08:39AM
22 **Q Same last name? 10:08:40AM**
23 A Yes. 10:08:42AM
24 **Q And his girlfriend's name? 10:08:42AM**
25 A Denise. 10:08:44AM

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1 **GEORGE HESSE**
2 **Q Who owns that address? 10:08:48AM**
3 A My father. 10:08:50AM
4 **Q And what's Denise's last name? 10:09:01AM**
5 A Czarnecki, C-Z-A-R-N-E-K-I. Close 10:09:04AM
6 enough.
7 **Q How long has she lived there? 10:09:10AM**
8 A 14 years. 10:09:12AM
9 **Q Did you use the Ocean Beach address 10:09:20AM**
10 **prior to three seasons ago when you started**
11 **staying overnight there?**
12 A Yes. 10:09:27AM
13 MR. NOVIKOFF: Can we just have for 10:09:28AM
14 the record what season are you referring to,
15 2006, 2007, 2005?
16 BY MR. GOODSTADT: 10:09:36AM
17 **Q Well, what season did you start 10:09:36AM**
18 **staying there?**
19 A 2006, I started staying there on a 10:09:40AM
20 regular basis on the weekends.
21 MR. NOVIKOFF: Do you want to define 10:09:46AM
22 the season, Andrew? It's been defined
23 before by other witnesses.
24 BY MR. GOODSTADT: 10:09:50AM
25 **Q When you use the word "season," why 10:09:51AM**

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1 **GEORGE HESSE**
2 **don't you tell us what you mean so we're both of**
3 **the same page.**
4 A The summer season of 2006 would start, 10:09:55AM
5 say, May and end in September.
6 **Q Is that somewhere before Memorial Day 10:10:05AM**
7 **to somewhere just after Labor Day?**
8 A Yeah. Two weeks before Memorial Day 10:10:10AM
9 to two weeks after Labor Day is an official
10 season, but I usually started staying around
11 Memorial Day right to Labor Day.
12 **Q And prior to 2006, were you using that 10:10:19AM**
13 **Ocean Beach address as your official address?**
14 A Yes. 10:10:24AM
15 **Q How come? 10:10:24AM**
16 A Well, I actually did live there back 10:10:26AM
17 in 2005 for about a year and a half, but not
18 directly at that address of 315 Bay Walk.
19 **Q What address did you live in? 10:10:38AM**
20 A The physical address was 146 Bungalow 10:10:40AM
21 Walk, and that's in Ocean Beach.
22 **Q Was that -- 10:10:48AM**
23 A It's a house. 10:10:49AM
24 **Q Who owns that house? 10:10:50AM**
25 A Right now, someone named Joe 10:10:53AM

3 (Pages 9 to 12)

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1 GEORGE HESSE
2 Housworth.
3 **Q Who owned it when you lived there in '05?** 10:10:56AM
4
5 A Oh, God. Last name was Reusch. I 10:11:00AM
6 think it was R-E-U-S-C-H.
7 **Q Did you rent it from Reusch?** 10:11:08AM
8 A Yes. 10:11:10AM
9 **Q Did you pay for that or did the beach pay for it?** 10:11:10AM
10
11 A I paid for it. 10:11:14AM
12 **Q Who did you live with in '05 for a year and a half there?** 10:11:14AM
13
14 A I lived with my wife; and then for a 10:11:18AM
15 short time, when my daughter was born, she lived
16 there with us.
17 **Q And prior to '05, had you ever used the Ocean Beach address as your address or any Ocean Beach address as your address?** 10:11:27AM
18
19 MR. NOVIKOFF: Objection to form. 10:11:37AM
20
21 A I don't know -- I'm thinking in 2004, 10:11:38AM
22 I may have established the address of 315 Bay
23 Walk.
24 **Q How about prior to 2004, did you ever use an Ocean Beach address as your address?** 10:11:53AM
25

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1 GEORGE HESSE
2 MR. NOVIKOFF: Objection to form. 10:11:57AM
3 A No. 10:11:58AM
4 **Q So prior to 2004, you never lived at Ocean Beach?** 10:12:02AM
5
6 MR. NOVIKOFF: Same objection. 10:12:06AM
7 A In -- I'm sorry, did I say 2004? I 10:12:07AM
8 meant '94, 1994. My first summer in Ocean Beach
9 was in '93, and I actually lived in the barracks
10 five days a week for my first season in Ocean
11 Beach.
12 **Q Were you a full-time officer or part-time officer?** 10:12:30AM
13
14 A I was part-time or seasonal at that 10:12:32AM
15 time.
16 **Q And you lived in the barracks five days a week?** 10:12:37AM
17
18 A Five days a week, correct. 10:12:39AM
19 **Q Did you pay any rent?** 10:12:40AM
20 A No. 10:12:42AM
21 **Q So why did you live there?** 10:12:44AM
22 MR. NOVIKOFF: I'm going to object. 10:12:48AM
23 BY MR. GOODSTADT: 10:12:49AM
24 **Q Why did you live at Ocean Beach during five days a week?** 10:12:49AM
25

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1 GEORGE HESSE
2 A I don't know. I was 23 years old and 10:12:53AM
3 I just took this job in Ocean Beach, and they
4 offered us -- not just me, but several police
5 officers the opportunity to stay there. I was
6 working late-night shifts; and to get a good
7 night's sleep, instead of going all the way home
8 and back, I stayed in the barracks.
9 **Q So just start. So '94, you established that as an official address?** 10:13:12AM
10
11 A That's correct, yes. 10:13:16AM
12 **Q What was the next official address that you used after '94?** 10:13:17AM
13
14 MR. NOVIKOFF: Objection to form. 10:13:21AM
15 A I guess when I moved to 191 The Helm. 10:13:24AM
16 **Q When was that?** 10:13:27AM
17 A You gotta figure -- let's see. I 10:13:30AM
18 think it was at the end of '97.
19 **Q And how long did you live at 191 The Helm?** 10:13:45AM
20
21 A From '97 to present. 10:13:48AM
22 **Q Did you ever use 191 The Helm as your official address?** 10:13:53AM
23
24 MR. NOVIKOFF: Objection. 10:13:58AM
25 A No. 10:13:58AM

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1 GEORGE HESSE
2 **Q So it was always Ocean Beach?** 10:13:58AM
3 A Correct. 10:14:01AM
4 **Q So how about from '97 until 2005, did you live in Ocean Beach at any time during that period at all?** 10:14:02AM
5
6 MR. NOVIKOFF: Objection to form. 10:14:08AM
7 A I would stay in Ocean Beach on 10:14:09AM
8 occasion.
9
10 **Q What do you mean by on occasion?** 10:14:12AM
11 A Well, back in the day, between -- I 10:14:13AM
12 got hired full-time in '95. So '95 through
13 maybe 2000, we worked some really whacked-out
14 tours, in the winter especially. We did two
15 days on with four days off, and I would stay
16 there my entire 48 hours. And we were allowed
17 to sleep, eat and stay in our apartments, the
18 barracks, during my tour after my patrol
19 function was done.
20 **Q So how many days a week were you living there between '97, when you moved out, and 2005, when you said you lived there for a year and a half?** 10:14:49AM
21
22 A You gotta figure it was 48-hour 10:14:57AM
23 shifts. It was two days straight, four days
25

4 (Pages 13 to 16)

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1 GEORGE HESSE
 2 off. Sometimes I would stay an extra day;
 3 sometimes I would go to 191 The Helm.
 4 **Q And why were you using the Ocean Beach 10:15:11AM**
 5 **address as your official address during that**
 6 **period even though you were only staying there**
 7 **two days a week?**
 8 MR. NOVIKOFF: Objection to form. 10:15:19AM
 9 MR. CONNOLLY: Which period, again, 10:15:21AM
 10 are we speaking of?
 11 MR. GOODSTADT: That period between 10:15:25AM
 12 '97, when he moved to 191 The Helm, and
 13 2005, when he moved to 146 Bungalow Walk.
 14 A Will you repeat the question, please. 10:15:34AM
 15 **Q Why did you use the Ocean Beach 10:15:36AM**
 16 **address as your official address during that**
 17 **period, when you were only staying there two**
 18 **days a week?**
 19 MR. NOVIKOFF: Objection to form. 10:15:44AM
 20 A I always kept it because I always 10:15:45AM
 21 thought I would officially move to Ocean Beach
 22 on a permanent basis.
 23 **Q So it was in anticipation of moving to 10:15:51AM**
 24 **Ocean Beach?**
 25 A Correct. 10:15:54AM

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1 GEORGE HESSE
 2 **Q But you didn't actually live there on 10:15:54AM**
 3 **a permanent basis, correct?**
 4 A For almost two years, I did. 10:15:59AM
 5 **Q But not during the period between '97 10:16:01AM**
 6 **and '04, correct?**
 7 A No. 10:16:05AM
 8 **Q Was there a residency requirement to 10:16:05AM**
 9 **be a full-time officer in Ocean Beach?**
 10 A Yes. 10:16:09AM
 11 **Q Is that why you use Ocean Beach as the 10:16:10AM**
 12 **address?**
 13 A At the time when I got hired, yes. 10:16:11AM
 14 **Q And when did you become a full-time 10:16:14AM**
 15 **officer?**
 16 A '95. I believe it was November of 10:16:17AM
 17 '95.
 18 **Q So the period between '97 and '05 that 10:16:22AM**
 19 **you didn't live there, you used the Ocean Beach**
 20 **address because of the residency requirement?**
 21 A No. 10:16:31AM
 22 **Q You used it because you anticipated 10:16:32AM**
 23 **that you'd eventually live there?**
 24 A Correct. 10:16:35AM
 25 **Q Even though you weren't at the time, 10:16:36AM**

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1 GEORGE HESSE
 2 **for all those years?**
 3 A Yes. 10:16:40AM
 4 **Q I just want to go over some ground 10:16:48AM**
 5 **rules before we get started.**
 6 MR. NOVIKOFF: I thought we just got 10:16:52AM
 7 started.
 8 MR. CONNOLLY: Continue. 10:16:56AM
 9 MR. GOODSTADT: Was that an objection 10:16:57AM
 10 or just an obnoxious comment?
 11 MR. NOVIKOFF: It was a comment. You 10:17:01AM
 12 said you were going to go over the ground
 13 rules before we got started, but we've just
 14 now spent 15 minutes on a residency issue.
 15 MR. GOODSTADT: Now we're wasting time 10:17:08AM
 16 on your inappropriate comments.
 17 MR. NOVIKOFF: If you'd like to 10:17:12AM
 18 continue the conversation, I'd be happy to.
 19 BY MR. GOODSTADT: 10:17:16AM
 20 **Q Do you understand that you're 10:17:16AM**
 21 **testifying under oath today?**
 22 A Yes. 10:17:19AM
 23 **Q And that you're legally obligated to 10:17:19AM**
 24 **tell the truth?**
 25 A Yes. 10:17:22AM

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1 GEORGE HESSE
 2 **Q And failure to do so is potentially 10:17:22AM**
 3 **punishable as a criminal sanction?**
 4 A Yes. 10:17:24AM
 5 **Q Have you ever testified under oath 10:17:25AM**
 6 **before --**
 7 A Yes. 10:17:27AM
 8 **Q Let me finish the question. 10:17:29AM**
 9 **Have you ever testified under oath 10:17:30AM**
 10 **before outside of your capacity as an arresting**
 11 **officer?**
 12 A No. 10:17:38AM
 13 **Q So you never testified in a civil 10:17:39AM**
 14 **action?**
 15 A Yes. 10:17:42AM
 16 **Q So since this is the first time you're 10:17:47AM**
 17 **testifying under oath in a civil action, I just**
 18 **want to make sure that --**
 19 MR. NOVIKOFF: Objection. He 10:17:54AM
 20 testified, I believe, that he testified in a
 21 civil action.
 22 MR. GOODSTADT: I said he's never 10:18:00AM
 23 testified in a civil action, and he said
 24 yes.
 25

5 (Pages 17 to 20)

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1 GEORGE HESSE
 2 BY MR. GOODSTADT: 10:18:05AM
 3 **Q Have you ever testified in a civil 10:18:06AM**
 4 **action?**
 5 A Yes. 10:18:07AM
 6 **Q How many times? 10:18:08AM**
 7 A Four, maybe five. 10:18:17AM
 8 **Q So why don't we start from today, not 10:18:22AM**
 9 **including today, going in reverse chronological**
 10 **order. When was the most recent time you**
 11 **testified under oath in a civil action?**
 12 A The last time may have been around 10:18:38AM
 13 1999.
 14 **Q And were you a party to that civil 10:18:44AM**
 15 **action?**
 16 A You know, I don't remember if I was 10:18:49AM
 17 particularly sued, but there was a police
 18 officer within the department that was sued.
 19 **Q And what was that matter -- strike 10:18:56AM**
 20 **that.**
 21 **Who was the plaintiff in that matter? 10:19:01AM**
 22 A Christopher Cuneen, C-U-N-E-E-N. 10:19:03AM
 23 **Q And who were the defendants? 10:19:10AM**
 24 A I don't remember if I was a named 10:19:12AM
 25 defendant, but Sergeant Bob Golopi and of course

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1 GEORGE HESSE
 2 the Ocean Beach Police Department and the
 3 Village of Ocean Beach.
 4 **Q And what was Mr. Cuneen alleging in 10:19:21AM**
 5 **his lawsuit?**
 6 A That he was brutally beaten up, false 10:19:27AM
 7 arrest, violation of civil rights.
 8 **Q Who did he allege beat him up? 10:19:35AM**
 9 A He may have alleged myself and 10:19:39AM
 10 Sergeant Golopi.
 11 **Q And you testified under oath in a 10:19:53AM**
 12 **deposition or in some other form?**
 13 A In a deposition. 10:19:57AM
 14 **Q Who represented you in that matter? 10:19:59AM**
 15 A I don't recall. 10:20:01AM
 16 **Q Did you testify at a trial in that 10:20:04AM**
 17 **matter?**
 18 A No. 10:20:06AM
 19 **Q Did that matter get to a trial? 10:20:07AM**
 20 A No. 10:20:09AM
 21 **Q Do you know how that case was 10:20:09AM**
 22 **resolved?**
 23 A I believe there was a settlement. 10:20:11AM
 24 **Q Do you know what the settlement was 10:20:14AM**
 25 **for?**

Page 23

1 **GEORGE HESSE**
 2 MR. NOVIKOFF: Objection only to the 10:20:16AM
 3 extent if you are aware if there was a
 4 confidentiality agreement. If you have no
 5 knowledge one way or of the other, then
 6 answer the question.
 7 MR. GOODSTADT: Don't you know a 10:20:26AM
 8 confidentiality agreement doesn't trump his
 9 obligation to testify under oath?
 10 MR. NOVIKOFF: I don't know what the 10:20:30AM
 11 confidentiality agreement says. I'm not
 12 going to take your representation of what
 13 the law is.
 14 MR. GOODSTADT: Well, that is the law. 10:20:37AM
 15 MR. NOVIKOFF: I'm asking the witness, 10:20:39AM
 16 since I represent the village, that if he's
 17 aware of whether or not there's a
 18 confidentiality agreement, he should say so.
 19 If he's not, he can answer the question.
 20 MR. CONNOLLY: You can answer the 10:20:48AM
 21 question.
 22 A I'm not aware. 10:20:50AM
 23 **Q You're not aware of what it settled 10:20:51AM**
 24 **for?**
 25 A I'm not aware, no. 10:20:54AM

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1 GEORGE HESSE
 2 MR. GOODSTADT: Ken, if you could just 10:21:28AM
 3 put your microphone back on so all this
 4 stuff is on the record.
 5 MR. NOVIKOFF: I think it is on the 10:21:31AM
 6 record. The stenographer and I believe the
 7 videographer nodded with approval when I
 8 took the mic off, indicating, at least to
 9 me, that he could hear me.
 10 MR. GOODSTADT: Is it picking up? 10:21:41AM
 11 Yeah, because I think we had one deposition
 12 where it didn't.
 13 BY MR. GOODSTADT: 10:21:47AM
 14 **Q Now, prior to the 1999 case with 10:21:47AM**
 15 **Mr. Cuneen, when was the time before that that**
 16 **you testified under oath in a civil matter?**
 17 A I believe the one prior to that -- 10:21:56AM
 18 actually, you know what, I'm mistaken. There
 19 might have been one just prior to that -- before
 20 that one, working our way back. Bruce Mancada.
 21 **Q Do you know how to spell Mancada? 10:22:11AM**
 22 A It's M-A-N-C-A-D-A. 10:22:14AM
 23 **Q And Mr. Mancada was a plaintiff in the 10:22:22AM**
 24 **matter that you testified in?**
 25 A Yes. 10:22:25AM

6 (Pages 21 to 24)

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1 GEORGE HESSE
2 **Q Were you a defendant in that case?** 10:22:26AM
3 A Yes. 10:22:27AM
4 **Q Where was that case filed, do you** 10:22:27AM
5 **know?**
6 A I believe in Suffolk County. 10:22:29AM
7 **Q Where was the Cuneen case filed, do** 10:22:34AM
8 **you know?**
9 A Also, I believe, Suffolk County. 10:22:37AM
10 **Q And who were the defendants in** 10:22:43AM
11 **Mr. Mancada's case?**
12 A That would be me and a Billy Powell. 10:22:46AM
13 **Q And what were the allegations that** 10:22:54AM
14 **Mr. Mancada made against you and Mr. Powell?**
15 A Excessive force, violation of civil 10:22:59AM
16 rights.
17 MR. NOVIKOFF: I'm sorry, Andrew. Did 10:23:10AM
18 we establish this was before or after the
19 first case that he talked about?
20 MR. GOODSTADT: He believed it was 10:23:16AM
21 closer to today --
22 MR. NOVIKOFF: Okay. Got it. 10:23:19AM
23 MR. GOODSTADT: -- than the Cuneen 10:23:20AM
24 matter.
25 MR. CONNOLLY: At or about 1999. 10:23:23AM

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1 GEORGE HESSE
2 THE WITNESS: I believe it was 2000, 10:23:26AM
3 2001. I'm not really sure.
4 BY MR. GOODSTADT: 10:23:29AM
5 **Q And you testified under oath in a** 10:23:30AM
6 **deposition or was it some other form in that**
7 **matter?**
8 A A deposition. 10:23:35AM
9 **Q Did you testify at trial in that** 10:23:35AM
10 **matter?**
11 A No. 10:23:37AM
12 **Q Was there a trial in that matter?** 10:23:37AM
13 A No. 10:23:39AM
14 **Q Do you know how that case was** 10:23:39AM
15 **resolved?**
16 A No. 10:23:41AM
17 **Q You don't know if there was a** 10:23:42AM
18 **settlement?**
19 A No. 10:23:44AM
20 **Q Who represented you in that matter?** 10:23:45AM
21 A I don't recall. 10:23:47AM
22 **Q In connection with the Cuneen matter,** 10:23:52AM
23 **were there any criminal charges brought against**
24 **you?**
25 A No. 10:23:57AM

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1 GEORGE HESSE
2 **Q Were there any criminal charges** 10:23:57AM
3 **brought against Mr. Cuneen?**
4 A Yes. 10:24:01AM
5 **Q What were the charges brought against** 10:24:02AM
6 **Mr. Cuneen?**
7 A I wouldn't say criminal -- it was -- 10:24:05AM
8 actually, there were two incidents with
9 Mr. Cuneen. One dealt with me, where he was
10 trespassing on private property, and he was
11 arrested for that. And then later he was
12 rearrested for harassment, maybe. I don't know
13 the particulars of the charges, but he was
14 rearrested later, when I wasn't present.
15 **Q Do you know whether he was convicted** 10:24:35AM
16 **on any of those arrests?**
17 A I don't know. 10:24:43AM
18 **Q And who arrested him for trespassing?** 10:24:44AM
19 A I was the arresting officer. 10:24:46AM
20 **Q And who was the arresting officer for** 10:24:48AM
21 **the harassment or other crime?**
22 A Bob Golopi, Sergeant Bob Golopi. 10:24:54AM
23 **Q And Bob Golopi was one of the** 10:24:59AM
24 **defendants in that matter?**
25 A Yes. 10:25:05AM

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1 GEORGE HESSE
2 **Q And he was alleged to have physically** 10:25:05AM
3 **beaten Mr. Cuneen?**
4 A He was alleged, yes. 10:25:09AM
5 **Q And now the Mancada matter. Were** 10:25:11AM
6 **there any criminal charges brought against you?**
7 A No. 10:25:17AM
8 **Q Were there any criminal charges** 10:25:17AM
9 **brought against Mr. Mancada?**
10 A Yes. 10:25:21AM
11 **Q What were the charges brought against** 10:25:22AM
12 **Mr. Mancada?**
13 A They were disorderly conduct and 10:25:25AM
14 resisting arrest.
15 **Q After being arrested -- after being** 10:25:37AM
16 **arrested for that, was he actually charged with**
17 **those --**
18 A Yes. 10:25:42AM
19 **Q -- with two allegations?** 10:25:43AM
20 **Was there a trial?** 10:25:45AM
21 A No. 10:25:46AM
22 **Q Did he plead?** 10:25:48AM
23 A I don't know. 10:25:49AM
24 **Q Who was the arresting officer of** 10:25:50AM
25 **Mr. Mancada?**

7 (Pages 25 to 28)

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1 **GEORGE HESSE**
2 A I was. 10:25:53AM
3 **Q What did Mr. Mancada allege you to 10:25:58AM**
4 **have done?**
5 A I believe just an excessive use of 10:26:04AM
6 force and violated his civil rights. I don't
7 really recall the whole complaint.
8 **Q Do you recall anything that he alleged 10:26:12AM**
9 **that you had done to him that he believed was**
10 **excessive force?**
11 A No. 10:26:16AM
12 **Q So you don't know if he was convicted 10:26:22AM**
13 **for anything --**
14 A I don't recall. 10:26:25AM
15 **Q -- in connection with that matter? 10:26:25AM**
16 **How about -- and I think you testified 10:26:29AM**
17 **that -- did you testify that Golopi was a**
18 **sergeant at the time?**
19 A Yes, I did. 10:26:38AM
20 MR. NOVIKOFF: Objection. Asked and 10:26:40AM
21 answered.
22 A Yes. 10:26:41AM
23 **Q He was? You reported to him at that 10:26:41AM**
24 **time?**
25 A I reported to him? Yes. 10:26:46AM

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1 **GEORGE HESSE**
2 **Q Then how about the time before the 10:26:51AM**
3 **Cuneen testimony, when did that happen?**
4 MR. NOVIKOFF: Objection to form. 10:26:57AM
5 BY MR. GOODSTADT: 10:26:58AM
6 **Q The time prior to the Cuneen matter, 10:26:58AM**
7 **when was the closest in time to that that you**
8 **testified under oath in a civil matter?**
9 MR. NOVIKOFF: Objection to form. 10:27:08AM
10 MR. CONNOLLY: You can answer. 10:27:08AM
11 A I really don't understand the 10:27:10AM
12 question.
13 **Q Right. We're going in reverse 10:27:12AM**
14 **chronological on your civil testimony, correct?**
15 A Right. 10:27:15AM
16 **Q So you have Mancada is the most 10:27:16AM**
17 **recent, other than for today.**
18 A Okay. 10:27:20AM
19 **Q Then Cuneen? 10:27:21AM**
20 A Correct. 10:27:22AM
21 **Q Okay. And now going in reverse 10:27:22AM**
22 **chronological order, when was the time before**
23 **that that you testified in a civil matter?**
24 A I believe -- I don't know the exact 10:27:28AM
25 date. It could be in or around 95, '96.

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1 **GEORGE HESSE**
2 **Q And who was the plaintiff in that 10:27:41AM**
3 **matter?**
4 A Kenneth Ryan. 10:27:43AM
5 **Q Were you a defendant in that matter? 10:27:48AM**
6 A Yes. 10:27:50AM
7 **Q Who were the other defendants? 10:27:51AM**
8 A I might have been the only one. I'm 10:27:52AM
9 not sure. I don't recall.
10 **Q What was the allegation that Mr. Ryan 10:27:57AM**
11 **made against you in that matter?**
12 A Excessive force, violation of civil 10:28:01AM
13 rights.
14 **Q Just so we're clear, the Cuneen 10:28:08AM**
15 **matter, Golopi was a defendant. Was the beach**
16 **also a defendant in that matter?**
17 A Yes. 10:28:18AM
18 **Q And the same thing with Mancada 10:28:19AM**
19 **matter. It was you, Powell. The beach also was**
20 **a defendant?**
21 A Correct. 10:28:24AM
22 **Q Were any other individuals that were 10:28:24AM**
23 **defendants in that matter?**
24 A In which one? 10:28:27AM
25 **Q Mancada. 10:28:28AM**

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1 **GEORGE HESSE**
2 A Not that I recall. 10:28:29AM
3 **Q How about in Cuneen? 10:28:30AM**
4 A Not that I recall. 10:28:32AM
5 **Q And Ryan, was the beach a defendant? 10:28:33AM**
6 A Yes. 10:28:40AM
7 **Q Who represented you in the Ryan 10:28:40AM**
8 **matter?**
9 A I don't recall. 10:28:43AM
10 **Q When you testified, was it at a 10:28:43AM**
11 **deposition or some other forum?**
12 A Deposition. 10:28:49AM
13 **Q And what were the allegations that 10:28:51AM**
14 **Mr. Ryan made that led him to claim that you**
15 **used excessive force and violated his civil**
16 **rights?**
17 A Repeat that. 10:29:00AM
18 **Q Yes. 10:29:01AM**
19 **What -- what conduct did Mr. Ryan 10:29:02AM**
20 **allege that you engaged in that amounted to**
21 **excessive force and a violation of his civil**
22 **rights?**
23 MR. NOVIKOFF: Alleged in the 10:29:12AM
24 complaint?
25 MR. GOODSTADT: Correct. 10:29:14AM

8 (Pages 29 to 32)

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1 GEORGE HESSE
2 A I think he alleged that I hit him in 10:29:14AM
3 the face with a baton and that I falsely
4 arrested him.
5 Q Did that matter go to trial? 10:29:25AM
6 A No. 10:29:27AM
7 Q Do you know how that matter was 10:29:28AM
8 disposed of or resolved?
9 A No. 10:29:31AM
10 Q You don't know if there was a 10:29:32AM
11 settlement in that matter?
12 A I don't know. 10:29:35AM
13 Q Were any criminal charges brought 10:29:48AM
14 against you in connection with the Ryan matter?
15 A No. 10:29:54AM
16 Q Were there any criminal -- well, 10:29:54AM
17 strike that.
18 Was he arrested at all in connection 10:29:54AM
19 with that matter?
20 A Yes. 10:29:57AM
21 Q What was he arrested for? 10:29:57AM
22 A Disorderly conduct and resisting 10:29:59AM
23 arrest.
24 Q And who was the arresting officer in 10:30:05AM
25 that matter?

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1 GEORGE HESSE
2 A I was. 10:30:08AM
3 Q Was he actually charged with those 10:30:09AM
4 crimes after being arrested?
5 A Yes. 10:30:13AM
6 Q Was there a trial? 10:30:14AM
7 A No. 10:30:18AM
8 Q Did he take a plea? 10:30:19AM
9 A Yes. 10:30:21AM
10 Q Do you know what he pled to? 10:30:21AM
11 A He may have pled to the disorderly 10:30:24AM
12 conduct, and he allocuted.
13 Q And how about the time before Kenneth 10:30:35AM
14 Ryan in which you testified in a civil matter,
15 when was that?
16 A The next one. 10:30:44AM
17 Q In reverse chronological order, the 10:30:46AM
18 time that you testified in a civil matter prior
19 to the Ryan matter.
20 A It may have been '93 or '94. 10:30:52AM
21 Q And who was the plaintiff in that 10:30:54AM
22 matter?
23 A Michael Bloomberg. 10:30:56AM
24 MR. NOVIKOFF: The mayor? 10:30:58AM
25 THE WITNESS: No. 10:31:01AM

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1 GEORGE HESSE
2 BY MR. GOODSTADT: 10:31:02AM
3 Q Were you a defendant? 10:31:02AM
4 A Say that again. 10:31:04AM
5 Q Were you a defendant? 10:31:04AM
6 A Yes. 10:31:06AM
7 Q Who were the other defendants? 10:31:06AM
8 A I would believe just the Village of 10:31:09AM
9 Ocean Beach. I don't know if there were any
10 others.
11 Q And what did Mr. Bloomberg allege in 10:31:16AM
12 his complaint?
13 A Excessive use of force and violating 10:31:19AM
14 his civil rights.
15 Q And what did -- what conduct did he 10:31:32AM
16 allege that you engaged in that amounted to
17 excessive force and a violation of his civil
18 rights?
19 A What amount of conduct did I do? 10:31:41AM
20 Q Well, what conduct did he allege that 10:31:44AM
21 you did that amounted to excessive force and a
22 violation of his civil rights?
23 MR. NOVIKOFF: In the complaint? 10:31:51AM
24 MR. GOODSTADT: What was he alleging 10:31:52AM
25 in the complaint.

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1 GEORGE HESSE
2 A I don't really recall exactly. 10:31:56AM
3 Q Was there a trial in that matter? 10:31:59AM
4 A No. 10:32:01AM
5 Q Do you know how that matter was 10:32:01AM
6 resolved or disposed of?
7 A No. 10:32:05AM
8 Q You don't know if there was a 10:32:05AM
9 settlement?
10 A No. 10:32:08AM
11 Q Who represented you in connection with 10:32:10AM
12 that matter?
13 A I don't recall. 10:32:12AM
14 Q Do you know where that matter was 10:32:12AM
15 filed?
16 A Maybe Suffolk County. 10:32:14AM
17 Q How about the Ryan matter, do you know 10:32:16AM
18 where that was filed?
19 A Maybe Suffolk County also. 10:32:19AM
20 Q Were there any times that you 10:32:23AM
21 testified in a civil matter other than for today
22 and the four that you just testified to?
23 A Not that I recall. 10:32:30AM
24 Q Well, we're doing a good job so far, 10:32:36AM
25 but it's important that you give verbal answers

9 (Pages 33 to 36)

Page 37

1 **GEORGE HESSE**
2 **so we can get a written record as well as a**
3 **videotaped transmission of this deposition; is**
4 **that okay?**
5 A I understand. 10:32:48AM
6 **Q If I ask a question that you don't** 10:32:49AM
7 **understand or you don't hear, just ask me to**
8 **repeat it or rephrase it, okay?**
9 A Okay. 10:32:58AM
10 **Q If I use a term that you don't** 10:32:58AM
11 **understand or you don't hear, again, just ask me**
12 **to repeat it or rephrase it, okay?**
13 A Okay. 10:33:05AM
14 **Q Because if you do answer a question,** 10:33:07AM
15 **I'm going to assume that you both understood it**
16 **and that you heard it.**
17 A Okay. 10:33:12AM
18 MR. NOVIKOFF: Note my objection. 10:33:13AM
19 BY MR. GOODSTADT: 10:33:14AM
20 **Q It's important that you let me finish** 10:33:14AM
21 **my question, just as it's important that I let**
22 **you finish your answer. It's just again so we**
23 **have a clean record; is that okay?**
24 A Yes. 10:33:19AM
25 **Q If there's any point in time that you** 10:33:20AM

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1 **GEORGE HESSE**
2 **feel that you need to take a break or you want**
3 **to take a recess, just let me know. I'll be**
4 **happy to accommodate that, okay?**
5 A Yes. 10:33:28AM
6 **Q Are you presently taking any** 10:33:28AM
7 **medications?**
8 A No. 10:33:32AM
9 **Q Is there anything that can think of** 10:33:32AM
10 **that would prevent you from testifying fully and**
11 **truthfully today?**
12 A No. 10:33:38AM
13 **Q Are you sick at all today?** 10:33:39AM
14 A No. 10:33:40AM
15 **Q Are you represented by an attorney in** 10:33:44AM
16 **connection with this matter?**
17 A Yes. 10:33:48AM
18 **Q Who is that?** 10:33:48AM
19 A Kevin Connolly. 10:33:49AM
20 **Q And he's sitting right next to you,** 10:33:50AM
21 **correct?**
22 A Correct. 10:33:53AM
23 **Q When did you first learn that the** 10:33:53AM
24 **plaintiffs were making allegations against Ocean**
25 **Beach and you in connection with this matter?**

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. 10:34:01AM
3 Just allegations in the complaint or 10:34:02AM
4 just allegations at all?
5 MR. GOODSTADT: Allegations generally. 10:34:06AM
6 MR. NOVIKOFF: Okay. Objection to 10:34:09AM
7 form.
8 MR. CONNOLLY: Allegations that would 10:34:11AM
9 have been ultimately contained in the
10 complaint.
11 MR. NOVIKOFF: Yeah, I don't 10:34:15AM
12 understand the question.
13 BY MR. GOODSTADT: 10:34:17AM
14 **Q Do you understand what I mean by** 10:34:18AM
15 **allegations?**
16 A Just repeat the question, please. 10:34:=
17 19AM
18 **Q When did you first learn that the** 10:34:21AM
19 **plaintiffs in this case were making allegations**
20 **against the beach and you?**
21 MR. NOVIKOFF: Objection. Form. 10:34:27AM
22 A I don't recall the date. 10:34:29AM
23 **Q Do you recall how you learned of it?** 10:34:30AM
24 A I believe I received a notice of claim 10:34:34AM
25 at some point. I don't remember the date.
Q How did you receive that notice of 10:34:41AM

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1 **GEORGE HESSE**
2 **claim?**
3 A I don't recall. 10:34:46AM
4 **Q You don't recall whether it was** 10:34:48AM
5 **delivered by mail, by hand, overnight, E-mail,**
6 **fax?**
7 A I don't recall. 10:34:54AM
8 **Q Do you recall where you were when you** 10:34:55AM
9 **received it?**
10 A I don't recall. 10:34:58AM
11 **Q Who did you speak with about the** 10:35:03AM
12 **notice of claim when you received it?**
13 MR. NOVIKOFF: Objection. 10:35:08AM
14 A I believe the first person I had 10:35:09AM
15 spoken to was Maryann Minerva.
16 **Q Who's she?** 10:35:17AM
17 A She's the village administrator. 10:35:18AM
18 **Q Did you reach out to her or did she** 10:35:26AM
19 **reach out to you in connection with that**
20 **discussion?**
21 A I don't know. 10:35:31AM
22 MR. NOVIKOFF: Objection. Form. 10:35:33AM
23 A I don't recall. 10:35:34AM
24 **Q Was it on the phone or in person or** 10:35:34AM
25 **some other means?**

10 (Pages 37 to 40)

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. Form. 10:35:37AM
3 A I don't recall. 10:35:38AM
4 **Q What did you discuss with her? 10:35:41AM**
5 A We may have read the complaint 10:35:47AM
6 together and may have made some opinions about
7 it.
8 MR. CONNOLLY: Are we speaking of the 10:35:56AM
9 complaint or the notice of claim?
10 THE WITNESS: Notice of claim. 10:36:00AM
11 BY MR. GOODSTADT: 10:36:01AM
12 **Q And tell me the substance of the 10:36:01AM**
13 **conversation.**
14 A I really don't recall the substance. 10:36:04AM
15 **Q What opinions did you guys reach at 10:36:06AM**
16 **that time?**
17 MR. NOVIKOFF: Objection. Form. 10:36:10AM
18 A I was upset. 10:36:13AM
19 **Q How come? 10:36:16AM**
20 A Because I thought it was baseless. 10:36:18AM
21 **Q Did you discuss that with Ms. Minerva 10:36:22AM**
22 **at the time?**
23 A Yes. 10:36:25AM
24 **Q What did you tell her about your 10:36:25AM**
25 **belief that it was baseless?**

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1 **GEORGE HESSE**
2 A I figured that the entire complaint 10:36:30AM
3 was out of line and it was just based on lies.
4 **Q Did you tell her why you thought it 10:36:39AM**
5 **was based on lies?**
6 A I don't recall. 10:36:42AM
7 **Q What did she say to you in that 10:36:44AM**
8 **conversation?**
9 MR. NOVIKOFF: Objection. 10:36:47AM
10 A She agreed with me. 10:36:47AM
11 **Q Do you recall anything else that she 10:36:52AM**
12 **said other than for saying I agree with you?**
13 A No. 10:36:55AM
14 **Q Do you recall anything else that was 10:36:56AM**
15 **stated during that conversation other than what**
16 **you've testified to?**
17 A I don't recall at this time. 10:37:01AM
18 **Q Is there anything that you can think 10:37:02AM**
19 **of that would refresh your recollection?**
20 A No. 10:37:06AM
21 **Q Did you take any notes of the 10:37:07AM**
22 **conversation?**
23 A No. 10:37:08AM
24 **Q Was anyone else there? 10:37:08AM**
25 A No. 10:37:10AM

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1 **GEORGE HESSE**
2 **Q How long did the conversation last? 10:37:10AM**
3 A I don't recall. 10:37:12AM
4 **Q Did you speak to -- well, strike that. 10:37:16AM**
5 **Who else did you speak with about the 10:37:19AM**
6 **notice of claim?**
7 MR. NOVIKOFF: Objection. Form. 10:37:23AM
8 A I'm sure at some point I spoke to 10:37:25AM
9 Joseph Loeffler.
10 **Q Do you actually recall speaking with 10:37:33AM**
11 **him?**
12 A Not particularly, no. 10:37:36AM
13 **Q So you don't know whether you actually 10:37:38AM**
14 **spoke with him?**
15 A I don't recall. 10:37:43AM
16 **Q Can you think of anything that would 10:37:45AM**
17 **refresh your recollection?**
18 A No. 10:37:47AM
19 **Q What led you to believe that you 10:37:47AM**
20 **likely spoke with him?**
21 A Well, at the time, he was a trustee. 10:37:52AM
22 And I don't remember how we got into contact
23 with each other, but I'm sure at some point we
24 did speak about it.
25 **Q Did you speak with any other trustees 10:38:07AM**

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1 **GEORGE HESSE**
2 **other than for Mr. Loeffler about the notice of**
3 **claim?**
4 A No trustees, no. 10:38:11AM
5 **Q Why would you speak to Loeffler as 10:38:13AM**
6 **opposed to the other trustees?**
7 A I believe at that point, when he was a 10:38:20AM
8 trustee and Mayor Loeffler was -- Mayor Rogers
9 was in office, I don't want to say that he was a
10 liaison, but I think he understood the police
11 department's operation better than she would, so
12 I think he would just kind of interpret things
13 for her.
14 **Q Did he have a title of police liaison 10:38:41AM**
15 **at the time?**
16 A No. 10:38:45AM
17 **Q Does that title exist? 10:38:45AM**
18 A Not that I'm aware of, no. 10:38:47AM
19 **Q You don't recall any of the substance 10:38:54AM**
20 **of that conversation?**
21 A I don't recall, no. 10:38:57AM
22 **Q Did you speak with Mayor Rogers about 10:38:58AM**
23 **the notice of claim?**
24 A Yes. 10:39:01AM
25 **Q And when was that? 10:39:01AM**

11 (Pages 41 to 44)

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1 **GEORGE HESSE**
2 A Repeat that. 10:39:03AM
3 **Q When was that conversation?** 10:39:04AM
4 A I don't recall the date. 10:39:05AM
5 **Q Was that in person or on the phone?** 10:39:06AM
6 A In person. 10:39:09AM
7 **Q Just going back to the Loeffler** 10:39:09AM
8 **discussion, was that in person or on the phone?**
9 A In person. 10:39:14AM
10 **Q Was anyone else there?** 10:39:15AM
11 A Not that I recall. 10:39:17AM
12 **Q Did you ever refer to Loeffler as the** 10:39:20AM
13 **police liaison?**
14 A Nothing official that I can recall. 10:39:25AM
15 **Q How about unofficially, did you ever** 10:39:29AM
16 **refer to him as the police liaison?**
17 A Not that I recall. 10:39:34AM
18 **Q So it's possible that you did?** 10:39:34AM
19 A Yeah. 10:39:36AM
20 MR. NOVIKOFF: Objection. 10:39:37AM
21 BY MR. GOODSTADT: 10:39:38AM
22 **Q When did you speak with Rogers, was** 10:39:41AM
23 **that before or after speaking with Loeffler,**
24 **about the notice of claim?**
25 A I don't recall if it was before or 10:39:48AM

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1 **GEORGE HESSE**
2 after.
3 **Q What did you discuss with Mayor Rogers** 10:39:53AM
4 **about the notice of claim?**
5 A Just that, in my opinion, it was 10:39:57AM
6 baseless.
7 **Q And what did she say?** 10:40:00AM
8 A I don't remember her reaction. 10:40:03AM
9 **Q Do you remember anything she said to** 10:40:04AM
10 **you in that conversation?**
11 A Not in reference to the notice of 10:40:12AM
12 claim.
13 (Whereupon, the referred to portion 10:40:18AM
14 was read back by the court reporter: Q, Do
15 you remember anything she said to you in
16 that conversation? A, Not in reference to
17 the notice of claim.)
18 BY MR. GOODSTADT: 10:40:27AM
19 **Q How about in reference to any of the** 10:40:27AM
20 **allegations in the notice of claim?**
21 MR. NOVIKOFF: Objection. Form. 10:40:31AM
22 A Not that I recall. 10:40:32AM
23 **Q Do you recall anything she said to you** 10:40:33AM
24 **during that conversation?**
25 A Yes. 10:40:36AM

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1 **GEORGE HESSE**
2 **Q What did she say you to during the** 10:40:36AM
3 **conversation that you recall?**
4 A She had brought up Ed Paradiso. 10:40:40AM
5 **Q What did she say about Ed Paradiso?** 10:40:43AM
6 A That she was disappointed in him. 10:40:45AM
7 **Q Did she tell you she was disappointed** 10:40:50AM
8 **in Ed Paradiso?**
9 A Because he just kind of fell off the 10:40:55AM
10 face of the earth and really had no
11 participation in anything that was happening to
12 the police department, and that was it.
13 **Q Was Ed Paradiso on active duty at the** 10:41:05AM
14 **time?**
15 A At that point, no. 10:41:11AM
16 **Q So she was referring to him not** 10:41:14AM
17 **participating in anything while he was not**
18 **active?**
19 MR. NOVIKOFF: Objection. 10:41:18AM
20 A He was on medical leave, I guess. I 10:41:20AM
21 don't know what the terminology is they
22 officially used, but he was out.
23 **Q But that's what she was saying, she** 10:41:29AM
24 **was disappointed that he wasn't participating in**
25 **anything at that time, while he was on the**

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1 **GEORGE HESSE**
2 **medical or whatever the term is?**
3 MR. NOVIKOFF: Objection to form. 10:41:38AM
4 A That's correct. 10:41:39AM
5 **Q Did she say anything else about Ed** 10:41:40AM
6 **Paradiso?**
7 A Not that I recall. 10:41:42AM
8 **Q Did you respond to her disappointment** 10:41:43AM
9 **about Paradiso?**
10 A I agreed with her. 10:41:46AM
11 **Q Did you expect Paradiso to participate** 10:41:49AM
12 **while he was out on medical leave?**
13 MR. NOVIKOFF: Objection. 10:41:54AM
14 A I would -- yes, I expected him to 10:41:55AM
15 participate in something.
16 **Q What did you expect him to participate** 10:41:58AM
17 **in?**
18 A He was still the chief of the police 10:42:02AM
19 department. He has some liabilities involved in
20 everything that we were doing.
21 **Q Do you recall anything else that you** 10:42:14AM
22 **discussed with Ms. Rogers during that**
23 **conversation?**
24 A No. 10:42:18AM
25 **Q And when she said that Ed Paradiso** 10:42:21AM

12 (Pages 45 to 48)

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1 **GEORGE HESSE**
2 wasn't participating in anything, was she
3 talking about the stuff that was set forth in
4 the notice of claim or just generally wasn't
5 participating?
6 A I think generally. 10:42:31AM
7 **Q Did you ever speak to Ed Paradiso 10:42:35AM**
8 **about the notice of claim?**
9 A Yes. 10:42:39AM
10 **Q When was that? 10:42:40AM**
11 A I don't recall. 10:42:42AM
12 **Q Was that before or after you spoke 10:42:44AM**
13 **with Rogers?**
14 A I don't recall. 10:42:47AM
15 **Q Was it in person or on the phone? 10:42:49AM**
16 A On the phone. 10:42:51AM
17 **Q Did you call him or he called you? 10:42:52AM**
18 A He called me. 10:42:54AM
19 **Q Did he call you at home or at the 10:42:55AM**
20 **station or elsewhere?**
21 A At the station. 10:43:00AM
22 **Q Approximately how long after you 10:43:02AM**
23 **received the notice of claim did he call you to**
24 **discuss it?**
25 A I don't recall. 10:43:07AM

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1 **GEORGE HESSE**
2 **Q And tell me everything you recall from 10:43:09AM**
3 **that conversation.**
4 A I expressed my disappointment in him 10:43:18AM
5 as the chief and that I believed that the
6 majority of what was going on with me in
7 reference to the job was his fault.
8 **Q What do you mean by that? 10:43:29AM**
9 A Just that I'm getting blamed for 10:43:32AM
10 absolutely everything, and he's chief of police.
11 **Q Do you recall what he said in response 10:43:42AM**
12 **to that?**
13 A Just a lot of, oh, I understand, 10:43:45AM
14 Georgie.
15 **Q Do you recall anything else you said 10:43:48AM**
16 **other than for the fact that you were getting**
17 **blamed for everything and he's the chief of**
18 **police?**
19 A Repeat that. 10:43:56AM
20 **Q Did you discuss anything else other 10:43:57AM**
21 **than for telling him that you're getting blamed**
22 **for everything even though he's the chief of**
23 **police?**
24 A No. 10:44:05AM
25 **Q Did you discuss the substance of the 10:44:05AM**

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1 **GEORGE HESSE**
2 **claims in the notice of claim with him?**
3 A No. 10:44:09AM
4 **Q Have you ever discussed the substance 10:44:11AM**
5 **of the allegations in the notice of claim or the**
6 **complaint in this lawsuit with Ed Paradiso?**
7 MR. NOVIKOFF: Objection to form. 10:44:20AM
8 A No. I don't recall. 10:44:21AM
9 **Q What was the everything that you 10:44:29AM**
10 **thought you were getting blamed for?**
11 A Just the overall operation of the 10:44:34AM
12 police department. Everything was just falling
13 onto my lap. I was carrying the burden of
14 everything that happened to be going wrong.
15 **Q Was there anything going wrong other 10:44:44AM**
16 **than for receiving a notice of claim from the**
17 **plaintiff in this matter?**
18 MR. NOVIKOFF: Objection to form. 10:44:51AM
19 A We had some internal issues. 10:44:52AM
20 **Q What were those. 10:44:54AM**
21 MR. NOVIKOFF: Well, were you done 10:44:56AM
22 with your answer?
23 BY MR. GOODSTADT: 10:44:59AM
24 **Q You can finish. I'm sorry. We have 10:44:59AM**
25 **that understanding that we're going to let each**

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1 **GEORGE HESSE**
2 **other finish.**
3 A We were having some internal issues, 10:45:04AM
4 and I believe also the -- an incident that I was
5 involved with later.
6 **Q Anything other than for the notice of 10:45:21AM**
7 **claim, the internal issues and that incident**
8 **that you're referring to when you told Chief**
9 **Paradiso that you were getting blamed for**
10 **everything?**
11 MR. NOVIKOFF: Note my objection to 10:45:30AM
12 the form.
13 A I don't recall. 10:45:32AM
14 **Q What internal issues were you 10:45:33AM**
15 **referring to?**
16 A We had an incident back in 2004, and 10:45:37AM
17 we all know it here at this table, called the
18 Halloween incident. There was a lot of
19 animosity within the police department that
20 needed to be rectified that was never done.
21 **Q Animosity between who? 10:45:58AM**
22 A Employees. 10:46:00AM
23 **Q Who were the employees that there was 10:46:01AM**
24 **animosity between?**
25 A That would be Kevin Lamm, Frank 10:46:04AM

13 (Pages 49 to 52)

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1 GEORGE HESSE
2 Fiorillo, Tom Snyder, Gary Bosetti, Richard
3 Bosetti. There may have been some others that I
4 don't recall at this time.
5 **Q Do you recall anyone else that there 10:46:17AM**
6 **was animosity between that you're referring to?**
7 A Repeat that. 10:46:21AM
8 **Q Anyone else that there was animosity 10:46:22AM**
9 **between that you're referring when you say there**
10 **was animosity in the department?**
11 A I don't recall at this time. 10:46:26AM
12 **Q Ty Bacon? 10:46:28AM**
13 A There may have been. I don't know. 10:46:31AM
14 **Q Patrick Cherry? 10:46:32AM**
15 A No. 10:46:34AM
16 **Q John Dyer? 10:46:37AM**
17 A No. 10:46:39AM
18 **Q And when you say there was animosity, 10:46:43AM**
19 **it was between Lamm, Fiorillo and Snyder on one**
20 **side and the Bosettis on the other?**
21 MR. NOVIKOFF: Objection to form. 10:46:52AM
22 A Yes. 10:46:53AM
23 **Q Was there animosity between you and 10:46:55AM**
24 **the Bosettis in connection with the Halloween**
25 **incident?**

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1 GEORGE HESSE
2 A No. 10:47:00AM
3 **Q Was there animosity between you and 10:47:01AM**
4 **Fiorillo, Snyder and Lamm?**
5 A No. 10:47:04AM
6 **Q When did that animosity start? 10:47:13AM**
7 A Probably right -- right away, in 2004, 10:47:18AM
8 October 31st.
9 **Q So before that, there was no animosity 10:47:23AM**
10 **between the Bosettis and those three plaintiffs**
11 **that you're referring to?**
12 A Not that I'm aware of. 10:47:30AM
13 MR. NOVIKOFF: Objection. 10:47:32AM
14 BY MR. GOODSTADT: 10:47:32AM
15 **Q Were any other -- and we'll discuss 10:47:35AM**
16 **Halloween a little bit later. But were there**
17 **any other internal issues that you're referring**
18 **to other than for the Halloween incident?**
19 A There was some regular insubordination 10:47:45AM
20 from some members of the police department and
21 myself.
22 **Q And who was that? 10:47:51AM**
23 A That would be Frank Fiorillo and Kevin 10:47:52AM
24 Lamm.
25 **Q Anyone else? 10:47:58AM**

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1 GEORGE HESSE
2 A Not that I recall. 10:48:00AM
3 **Q And what insubordination are you 10:48:03AM**
4 **referring to with respect to Fiorillo?**
5 A There are some particular times where 10:48:08AM
6 he was asked to do something and flat-out
7 refused.
8 **Q And what were those things he was 10:48:15AM**
9 **asked to do that he refused?**
10 A Well, there was one incident where I 10:48:19AM
11 asked him to just take a little Windex and
12 squirt one of the windows on the police car, and
13 I was told to go fuck myself, he wasn't gonna do
14 it.
15 **Q Did you write him up for that? 10:48:31AM**
16 A Yes, I did. 10:48:33AM
17 **Q Any other incidents that you're 10:48:39AM**
18 **referring to other than for squirting the Windex**
19 **on the police window?**
20 A Yeah. There was a time where he and 10:48:46AM
21 Kevin Lamm came to me and asked me if they
22 could -- when they're writing summons, if they
23 could take bail out on the street in a police
24 car, and I told them no, you cannot do that;
25 it's called station house bail for a reason.

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1 GEORGE HESSE
2 They went over my head. They went to 10:49:01AM
3 Judge Russell at the time. Judge Russell, not
4 being a criminal judge but a civil judge or
5 attorney, gave them wrong information,
6 misinformation, and told them that they can do
7 it.
8 They asked me again. I told them 10:49:17AM
9 again, no, you cannot do it, and I actually
10 caught them taking money from somebody they were
11 writing up in the police car just outside the
12 police department, and they tried to hide it
13 from me, because they hid the bail book in -- I
14 believe Kevin Lamm came in, grabbed the bail
15 book and went outside and tried to take bail.
16 **Q Were you upset that they went to Judge 10:49:41AM**
17 **Powell? Is that his name?**
18 A Russell. 10:49:45AM
19 **Q Russell. Were you upset that they 10:49:46AM**
20 **went to Judge Russell?**
21 A No, I wasn't upset. It was just 10:49:50AM
22 incorrect procedure.
23 **Q It's a break in the chain of command? 10:49:55AM**
24 A You could say that. 10:49:57AM
25 **Q Would you say that? 10:49:58AM**

14 (Pages 53 to 56)

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1 **GEORGE HESSE**
2 A No. 10:49:59AM
3 **Q You wouldn't say that's a break in the 10:49:59AM**
4 **chain of command?**
5 A No. Judge is not part of the chain of 10:50:02AM
6 command.
7 **Q So it would be breaking the chain of 10:50:05AM**
8 **command?**
9 MR. NOVIKOFF: Objection. Form. 10:50:09AM
10 A He's not part of the chain of command. 10:50:10AM
11 **Q So they went outside the chain of 10:50:13AM**
12 **command?**
13 A Yes. 10:50:16AM
14 **Q Is that improper? 10:50:16AM**
15 A That's improper, yes. 10:50:17AM
16 **Q Did you write them up for that 10:50:21AM**
17 **incident?**
18 A No. 10:50:24AM
19 **Q How come? 10:50:25AM**
20 A I counseled them right on the spot. 10:50:26AM
21 **Q Did you memorialize that incident in 10:50:30AM**
22 **writing in any way?**
23 A No. 10:50:34AM
24 **Q Any other incidents of insubordination 10:50:36AM**
25 **that you're referring to with respect to Lamm or**

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1 **GEORGE HESSE**
2 **Fiorillo?**
3 A With Lamm, he had a habit of putting 10:50:45AM
4 handcuffs on somebody urinating in public and
5 dragging them down through town and bringing
6 them to the police department, and he was told
7 not to do that. Just write the summons on the
8 spot.
9 **Q Did you write him up for that? 10:51:02AM**
10 A No. 10:51:04AM
11 **Q Did he violate your direction of just 10:51:05AM**
12 **writing them up on the spot?**
13 A On a few occasions, yes. 10:51:11AM
14 **Q Even though he was allegedly 10:51:14AM**
15 **insubordinate on a few occasions, you didn't**
16 **write him up for it at all?**
17 A No. I counseled him. 10:51:21AM
18 **Q Did you memorialize it in writing in 10:51:22AM**
19 **any way?**
20 A No. 10:51:25AM
21 **Q Did any of the -- strike that. 10:51:25AM**
22 **Any other incidents of insubordination 10:51:35AM**
23 **that you're referring to when you testified a**
24 **moment ago about insubordination with respect to**
25 **Fiorillo and Lamm?**

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. Form. 10:51:43AM
3 A Right now, I don't recall. 10:51:44AM
4 **Q Any other internal issues other than 10:51:45AM**
5 **for the Halloween incident and the**
6 **insubordination by Fiorillo and Lamm?**
7 A As of right now, I don't recall. 10:51:53AM
8 **Q Anything that would refresh your 10:51:55AM**
9 **recollection?**
10 A I don't recall. I don't know. 10:51:57AM
11 **Q Do you have any notes anywhere -- 10:51:58AM**
12 A I have no notes. 10:51:59AM
13 **Q -- in a file? 10:52:00AM**
14 **And then you testified that you're 10:52:04AM**
15 **referring to an incident that you were involved**
16 **with later when you were talking about being**
17 **blamed for everything. What were referring to**
18 **when you said the incident that you were**
19 **involved in later?**
20 A Repeat that. 10:52:17AM
21 **Q Yeah, I believe before you 10:52:19AM**
22 **testified -- when I asked you what was the**
23 **everything that you thought you were getting**
24 **blamed for, you said it was the notice of claim,**
25 **internal issues and the incident that you were**

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1 **GEORGE HESSE**
2 **involved in later. What was the incident that**
3 **you were involved in later that you were**
4 **referring to?**
5 A The Gilbert incident. Sam Gilbert. 10:52:31AM
6 **Q And what was that? 10:52:34AM**
7 A That was an arrest that was made. 10:52:35AM
8 **Q That you made? 10:52:45AM**
9 A I was an assist on the arrest, but 10:52:49AM
10 another police officer made the arrest.
11 **Q And what do you mean by "incident"? 10:52:57AM**
12 **Was it anything more than just an arrest?**
13 A No. 10:53:01AM
14 **Q Did Mr. Gilbert sue you? 10:53:03AM**
15 A Yes. 10:53:05AM
16 **Q For what? 10:53:05AM**
17 A Excessive force -- he alleged that we 10:53:06AM
18 brutally beat him -- and false arrest, violating
19 his civil rights.
20 **Q And that matter is still pending, 10:53:19AM**
21 **correct?**
22 A The civil matter, yes. 10:53:21AM
23 **Q Who represents you in the civil 10:53:23AM**
24 **matter?**
25 A I believe his name is Mark Anesh. 10:53:25AM

15 (Pages 57 to 60)

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1 GEORGE HESSE
2 **Q Mr. Anesh is at Wilson, Elser, 10:53:34AM**
3 **Moskowitz, Edelman and Dicker?**
4 A It's possible. I don't recall. 10:53:39AM
5 And there is another attorney that is 10:53:40AM
6 on the case. I believe her last name is Slim,
7 S-L-I-M. I don't remember her first name. I've
8 only spoken to her once.
9 **Q Who are the other defendants in that 10:53:52AM**
10 **matter?**
11 MR. NOVIKOFF: On the civil or on the 10:53:56AM
12 criminal?
13 MR. GOODSTADT: On the civil matter. 10:53:57AM
14 That's what we're talking about.
15 A On the civil? I believe that would be 10:54:00AM
16 myself. There was Arnold Hardman, possibly --
17 well, the Village of Ocean Beach. To tell you
18 the truth, I don't recall who else is named on
19 the suit itself.
20 **Q And you were indicted for that? 10:54:22AM**
21 A That's correct. 10:54:23AM
22 **Q And you were tried for that? 10:54:24AM**
23 A That's correct. 10:54:25AM
24 **Q And you were acquitted, correct? 10:54:26AM**
25 A That's correct. 10:54:29AM

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1 GEORGE HESSE
2 **Q Did you testify in the criminal trial? 10:54:29AM**
3 A No. 10:54:32AM
4 **Q And other than for this matter, the 10:54:39AM**
5 **Gilbert matter, the other matters that you**
6 **testified to that you testified in a deposition,**
7 **have you ever been sued civilly?**
8 MR. CONNOLLY: Objection, Andrew, only 10:54:53AM
9 that I don't believe there's been any
10 testimony that he testified in the Gilbert
11 matter.
12 MR. GOODSTADT: Well, I'm asking now 10:54:59AM
13 has he been sued in any matter.
14 BY MR. GOODSTADT: 10:55:02AM
15 **Q Other than for Gilbert, this incident 10:55:02AM**
16 **and perhaps the other four -- I know you don't**
17 **know if you were actually sued in the other**
18 **four. But putting those four aside, Gilbert and**
19 **this matter, have you ever been sued civilly?**
20 A Yes. I do have one other one. 10:55:11AM
21 **Q And what's the other one? 10:55:13AM**
22 A Jesse Prisco. Actually, I forgot 10:55:15AM
23 about that one.
24 **Q And what is Mr. Prisco suing you for? 10:55:23AM**
25 A Excessive force and maybe violating 10:55:25AM

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1 GEORGE HESSE
2 his civil rights. I don't recall what else.
3 **Q So let's go back to Gilbert quickly, 10:55:38AM**
4 **and we'll get into that in some more detail**
5 **later. In Gilbert, you testified already that**
6 **you were indicted on that matter and tried and**
7 **acquitted. Was Gilbert charged with any**
8 **criminal conduct with respect to that arrest?**
9 A Yes. 10:55:54AM
10 **Q And what was he charged with? 10:55:54AM**
11 A Resisting arrest and -- did I say -- I 10:55:56AM
12 said resisting arrest. Disorderly conduct,
13 resisting arrest, and he was also issued a
14 littering ticket.
15 **Q And who was the arresting officer? 10:56:11AM**
16 A Arnold Hardman. 10:56:13AM
17 **Q And was he charged with those crimes 10:56:24AM**
18 **that he was arrested for?**
19 A Mr. Gilbert? 10:56:29AM
20 **Q Yes. 10:56:30AM**
21 A Yes. 10:56:30AM
22 **Q And was there a trial in that matter? 10:56:31AM**
23 A No. 10:56:33AM
24 **Q Do you know how that -- those charges 10:56:34AM**
25 **were resolved, if at all?**

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1 GEORGE HESSE
2 A I believe he pled guilty to the 10:56:38AM
3 littering and they dismissed the other charges
4 in satisfaction.
5 **Q Okay. So there's no criminal charges 10:56:50AM**
6 **against him still pending, correct?**
7 A No. 10:56:55AM
8 **Q Let's go to Prisco. Who represents 10:56:55AM**
9 **you in the Prisco matter?**
10 A I don't recall his name. 10:57:00AM
11 **Q And who is Mr. Prisco suing other than 10:57:07AM**
12 **for you?**
13 A I'm sure the Village of Ocean Beach. 10:57:10AM
14 I don't recall who else is listed. I'm sure
15 there's a bunch of John Does, but I don't know.
16 **Q And what is Mr. Prisco suing you and 10:57:19AM**
17 **the beach for?**
18 A I believe I said that already. 10:57:24AM
19 **Q Excessive force? 10:57:25AM**
20 A Excessive use of force and civil right 10:57:25AM
21 violation.
22 **Q You did say that. I apologize. 10:57:30AM**
23 **What did Mr. Prisco allege that you 10:57:32AM**
24 **did that amounted to excessive force and**
25 **violations of his civil rights?**

16 (Pages 61 to 64)

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: In the complaint? 10:57:39AM
3 MR. GOODSTADT: In the complaint. 10:57:41AM
4 A He said that I dragged him down a 10:57:41AM
5 flight of stairs and that I beat him on the
6 street and falsely arrested him.
7 **Q And were any criminal charges brought 10:57:51AM**
8 **against Mr. Prisco with respect to that matter?**
9 A Yes. 10:57:56AM
10 **Q What were those charges? 10:57:56AM**
11 A There was an assault second. There 10:57:57AM
12 was disorderly conduct, resisting arrest. I
13 believe there was some sort of a noise violation
14 under the village code.
15 **Q Was he charged with those crimes that 10:58:08AM**
16 **he was arrested for?**
17 A Yes. 10:58:12AM
18 **Q And what was the outcome of those 10:58:12AM**
19 **charges?**
20 A I believe he pled to, I want to say 10:58:15AM
21 disorderly conduct, but I don't recall.
22 **Q Were there any criminal charges 10:58:27AM**
23 **brought against you or any other employees of**
24 **the village --**
25 A No. 10:58:33AM

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1 **GEORGE HESSE**
2 **Q -- with respect to that case? 10:58:34AM**
3 **Now, you didn't testify under oath at 10:58:36AM**
4 **all in the Prisco or the Gilbert matter, the**
5 **civil suits, right?**
6 A No. Right. 10:58:43AM
7 **Q Now, just going back to what we 10:58:47AM**
8 **discussed before about your discussions with**
9 **people when you received the notice of claim.**
10 **Did you discuss the notice of claim at all with**
11 **Gary Bosetti?**
12 A I may have. 10:58:56AM
13 **Q And when did you discuss it with him? 10:58:58AM**
14 A I don't recall. 10:59:00AM
15 **Q Do you recall where you were when you 10:59:00AM**
16 **discussed it?**
17 A No. 10:59:02AM
18 MR. NOVIKOFF: Objection. 10:59:03AM
19 BY MR. GOODSTADT: 10:59:04AM
20 **Q Do you recall the substance of the 10:59:07AM**
21 **discussion that you had with him with respect to**
22 **the notice of claim?**
23 MR. NOVIKOFF: Objection. 10:59:15AM
24 MR. CONNOLLY: Objection. 10:59:16AM
25 A No. 10:59:17AM

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1 **GEORGE HESSE**
2 **Q How about Richard Bosetti, did you 10:59:17AM**
3 **discuss the notice of claim with him?**
4 A I don't recall. 10:59:21AM
5 **Q Have you discussed the complaint in 10:59:21AM**
6 **this lawsuit or any of the allegations in the**
7 **complaint with Gary Bosetti?**
8 MR. CONNOLLY: Objection, Andrew, to 10:59:27AM
9 the extent that I don't know if we've gone
10 through whether Mr. Hesse had received a
11 copy of the complaint.
12 BY MR. GOODSTADT: 10:59:34AM
13 **Q You were served with a copy of the 10:59:35AM**
14 **complaint in this lawsuit, correct?**
15 A I believe so. 10:59:38AM
16 **Q Have you read the complaint in this 10:59:39AM**
17 **lawsuit?**
18 A Yes. 10:59:41AM
19 **Q Did you ever discuss the complaint or 10:59:42AM**
20 **any allegations in the complaint with Gary**
21 **Bosetti subsequent to you receiving it?**
22 A I don't recall. 10:59:49AM
23 **Q Did you ever discuss the complaint or 10:59:50AM**
24 **any allegations in the complaint with Richard**
25 **Bosetti subsequent to your receiving it?**

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1 **GEORGE HESSE**
2 A I don't recall. 10:59:56AM
3 **Q Did you ever discuss the complaint or 10:59:56AM**
4 **any allegation in the complaint with yo Loeffler**
5 **subsequent to you receiving it?**
6 A Yes. 11:00:03AM
7 **Q How many times? 11:00:04AM**
8 A I don't recall. 11:00:05AM
9 **Q Approximately how many times? 11:00:05AM**
10 A I really don't know. 11:00:07AM
11 **Q Do you recall the substance of any of 11:00:09AM**
12 **those conversations that you had with Joe**
13 **Loeffler about the complaint?**
14 A That we both felt that it was 11:00:14AM
15 baseless.
16 **Q Did you discuss why you felt it was 11:00:17AM**
17 **baseless with Joe Loeffler?**
18 A Just it's all lies. 11:00:21AM
19 **Q But did you discuss what you thought 11:00:23AM**
20 **were lies?**
21 A The whole thing. 11:00:25AM
22 **Q Every word in the complaint you think 11:00:31AM**
23 **is a lie?**
24 A Yes. 11:00:33AM
25 **Q Do you recall anything that 11:00:36AM**

17 (Pages 65 to 68)

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1 **GEORGE HESSE**
2 **Mr. Loeffler said during those conversations?**
3 A I don't recall. 11:00:41AM
4 **Q You don't recall anything he said? 11:00:42AM**
5 A I don't recall. 11:00:45AM
6 **Q Do you have anything that would 11:00:46AM**
7 **refresh your recollection that you can think of?**
8 A At this time, no. 11:00:51AM
9 **Q Do you have any notes? Did you ever 11:00:51AM**
10 **have any written correspondence with him about**
11 **this matter?**
12 A Not that I'm aware of. 11:00:55AM
13 **Q Did you ever discuss Mitch Burns with 11:00:57AM**
14 **Joe Loeffler?**
15 A No. 11:01:01AM
16 MR. NOVIKOFF: Objection only as to 11:01:01AM
17 time frame.
18 MR. GOODSTADT: Ever. 11:01:04AM
19 A No. 11:01:05AM
20 **Q Did you ever discuss the complaint or 11:01:09AM**
21 **any allegations in the complaint with Patrick**
22 **Cherry?**
23 A Yes. 11:01:15AM
24 **Q And when I say Patrick Cherry, I'm 11:01:16AM**
25 **referring to Patrick Cherry, Sr. Is that fair?**

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1 **GEORGE HESSE**
2 A Yes. 11:01:21AM
3 **Q How many times did you discuss the 11:01:22AM**
4 **complaint or the allegations of the complaint**
5 **with Pat Cherry?**
6 MR. NOVIKOFF: Objection again. Only 11:01:27AM
7 once he received the complaint?
8 MR. GOODSTADT: Subsequent to 11:01:30AM
9 receiving the complaint.
10 A How many times? 11:01:31AM
11 **Q Yes. 11:01:31AM**
12 A I don't recall. 11:01:32AM
13 **Q Approximately how many times? 11:01:32AM**
14 A I really don't recall. 11:01:34AM
15 **Q More than five? 11:01:34AM**
16 A It's possible. 11:01:35AM
17 **Q More than 10? 11:01:36AM**
18 A I don't know. 11:01:37AM
19 **Q When do you recall the first time 11:01:42AM**
20 **speaking with Cherry about the lawsuit?**
21 A I don't recall. 11:01:45AM
22 **Q Was it within six months of receiving 11:01:46AM**
23 **it?**
24 A Safe to say, yes. 11:01:53AM
25 **Q Do you recall the substance of any of 11:01:54AM**

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1 **GEORGE HESSE**
2 **your conversations with Cherry about the**
3 **complaint or any allegations of the complaint?**
4 A Just that it's baseless. 11:02:00AM
5 **Q Did you discuss what you thought was 11:02:01AM**
6 **baseless about it?**
7 A The whole thing. 11:02:04AM
8 **Q Did you discuss specifically, other 11:02:05AM**
9 **than for saying the whole thing, any specific**
10 **allegations?**
11 MR. NOVIKOFF: Objection as to form. 11:02:11AM
12 A Just the basics. 11:02:12AM
13 **Q Did you discuss the basis of why you 11:02:14AM**
14 **thought it was baseless with him?**
15 A Based on lies. 11:02:15AM
16 **Q That's it? You didn't discuss the 11:02:16AM**
17 **actual specific claims at all with him?**
18 A No. 11:02:21AM
19 **Q Did you ever discuss the complaint or 11:02:25AM**
20 **any of the allegations in the complaint with**
21 **anyone from the Rivkin Radler law firm?**
22 A No. 11:02:33AM
23 **Q Did you ever discuss the complaint or 11:02:37AM**
24 **the allegations in the complaint with Natalie**
25 **Rogers?**

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1 **GEORGE HESSE**
2 A Yes. We went over that. 11:02:42AM
3 **Q No. I think we went over the notice 11:02:45AM**
4 **of claim with Natalie Rogers. Now I'm talking**
5 **about the complaint.**
6 MR. NOVIKOFF: Your deposition, and 11:02:50AM
7 this doesn't count to your time, but I think
8 the witness should know that there's a
9 difference between a notice of claim and a
10 complaint, because maybe his prior answers,
11 there was some confusion.
12 BY MR. GOODSTADT: 11:03:02AM
13 **Q Do you understand the difference 11:03:03AM**
14 **between the two?**
15 A Yes. 11:03:05AM
16 **Q I mean, certainly you've received 11:03:06AM**
17 **complaints in the past. You've now testified to**
18 **six or seven times you've been sued, correct?**
19 A Uh-huh. 11:03:13AM
20 **Q And did you receive notices of claims 11:03:14AM**
21 **in those cases, as well?**
22 MR. CONNOLLY: Objection. 11:03:14AM
23 A Yes. 11:03:14AM
24 **Q So you know the difference between the 11:03:15AM**
25 **two, correct?**

18 (Pages 69 to 72)

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1 **GEORGE HESSE**
2 A Yes. 11:03:18AM
3 **Q So now I'm just focused on the 11:03:19AM**
4 **complaint which was filed in federal court in**
5 **this lawsuit.**
6 **Did you ever discuss the complaint or 11:03:24AM**
7 **any of the allegations in the complaint with**
8 **Natalie Rogers?**
9 A I don't recall. 11:03:33AM
10 **Q You don't recall one way or the other? 11:03:34AM**
11 A No, I don't. 11:03:37AM
12 **Q Is there anything that you can think 11:03:40AM**
13 **of that would refresh your recollection as to**
14 **whether you spoke with her?**
15 A No. 11:03:45AM
16 **Q Did you ever discuss the complaint or 11:03:45AM**
17 **any allegations in the complaint with Ty Bacon?**
18 A Yes. 11:03:50AM
19 **Q How many times? 11:03:50AM**
20 A I don't know. 11:03:52AM
21 **Q Approximately how many times? 11:03:52AM**
22 A A couple times, maybe. 11:03:54AM
23 **Q More than five? 11:03:56AM**
24 A I wouldn't say -- I'd say no. 11:03:57AM
25 **Q So somewhere between two and five? 11:04:00AM**

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1 **GEORGE HESSE**
2 A It's possible, yes. 11:04:02AM
3 **Q Did you discuss it with him within the 11:04:04AM**
4 **first six months of receiving it?**
5 A I don't recall. 11:04:08AM
6 **Q What did you discuss with Ty Bacon 11:04:12AM**
7 **about the complaint or the allegations in the**
8 **complaint?**
9 A It was baseless. 11:04:16AM
10 **Q Did you discuss any of the specific 11:04:17AM**
11 **allegations?**
12 A I don't recall. 11:04:20AM
13 **Q Did you tell him what you believe was 11:04:20AM**
14 **baseless in the complaint?**
15 A Specifically, I don't recall. 11:04:23AM
16 **Q Anything that would refresh your 11:04:26AM**
17 **recollection?**
18 A Not as of right now, no. 11:04:28AM
19 **Q What did he say about the complaint, 11:04:30AM**
20 **if anything?**
21 A He agreed with me. Thought it was 11:04:33AM
22 baseless.
23 **Q Do you know whether he read the 11:04:36AM**
24 **complaint?**
25 A You know, I don't know. 11:04:38AM

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1 **GEORGE HESSE**
2 **Q Did you show him a copy of the 11:04:39AM**
3 **complaint?**
4 A No. 11:04:40AM
5 **Q So do you know where he was concluding 11:04:41AM**
6 **it was baseless if you -- do you know how he**
7 **reached the conclusion that it was baseless if**
8 **you don't even know that he read the complaint?**
9 MR. NOVIKOFF: Objection to form. 11:05:01AM
10 A Because of where it came from. 11:05:05AM
11 **Q What do you mean by that? 11:05:07AM**
12 A By the officers who filed it. 11:05:08AM
13 **Q So your understanding is that he 11:05:13AM**
14 **reached the conclusion it was baseless just**
15 **because it was filed by the five plaintiffs in**
16 **this case?**
17 A It's my opinion, yes. 11:05:21AM
18 **Q Did you ever ask him if he knew what 11:05:22AM**
19 **they were alleging?**
20 A No. 11:05:24AM
21 **Q Did you ever tell him what they were 11:05:24AM**
22 **alleging?**
23 A I don't recall. 11:05:27AM
24 **Q Did you ever show him a copy of the 11:05:27AM**
25 **complaint?**

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. Asked and 11:05:30AM
3 answered.
4 A No. 11:05:31AM
5 **Q Did you show any current or former 11:05:32AM**
6 **police officers in Ocean Beach a copy of the**
7 **complaint after you received it?**
8 A No. 11:05:40AM
9 **Q What was your first law enforcement 11:05:47AM**
10 **job?**
11 A Ocean Beach Police Department. 11:05:51AM
12 **Q And when were you hired in the Ocean 11:05:52AM**
13 **Beach Police Department?**
14 A I was sworn in in December of 1992. I 11:05:56AM
15 attended the police academy through '93,
16 graduated in May of '93 and started working that
17 summer.
18 **Q Did you attend full-time academy? 11:06:09AM**
19 A No, the part-time seasonal police 11:06:12AM
20 academy of Suffolk County.
21 **Q How many months is that academy? 11:06:20AM**
22 A March, April, May, 5 months. 11:06:24AM
23 **Q What's the difference between a 11:06:27AM**
24 **part-time seasonal academy and a full-time**
25 **academy?**

19 (Pages 73 to 76)

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1 **GEORGE HESSE**
2 A It's really the hours involved in the 11:06:32AM
3 training.
4 **Q There's more hours with the full-time? 11:06:35AM**
5 A Correct. 11:06:37AM
6 **Q So it's more training? 11:06:38AM**
7 A Yes. 11:06:39AM
8 **Q When you were sworn in in December 11:06:46AM**
9 '92, I assume you had already applied for the
10 job prior to then?
11 A Yes. 11:06:53AM
12 **Q When did you apply for the job? 11:06:53AM**
13 A I believe it was the end of the summer 11:06:55AM
14 of '92. My interview took place someplace in
15 the winter of '92 or the fall.
16 **Q How did you learn about the job? 11:07:07AM**
17 A Through a friend -- a friend of my 11:07:10AM
18 father's who was a Suffolk County Marine Bureau
19 police officer.
20 **Q And who was that? Who was the friend 11:07:18AM**
21 of your father?
22 A His name was Freddy DeSantis. 11:07:21AM
23 **Q Did you know anyone working in the 11:07:28AM**
24 Ocean Beach Police Department prior to
25 submitting the application?

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1 **GEORGE HESSE**
2 A No. 11:07:34AM
3 **Q Who did you interview with? 11:07:36AM**
4 A Bob Golopi. 11:07:39AM
5 **Q Anyone else? 11:07:42AM**
6 A I believe I met the chief, Ed 11:07:43AM
7 Paradiso, for a little -- a little while, but --
8 **Q So at the time, Bop Golopi was a 11:07:50AM**
9 sergeant and Paradiso was the chief?
10 A No, I think Bob was just a police 11:07:57AM
11 officer at the time.
12 **Q What do you mean by just a police 11:07:59AM**
13 officer?
14 A I don't think he was a sergeant at the 11:08:01AM
15 time when I first met him.
16 **Q At some point, he was elevated to 11:08:06AM**
17 sergeant?
18 A Yes. 11:08:09AM
19 **Q Did he have to go through any tests to 11:08:09AM**
20 be elevated to sergeant?
21 MR. NOVIKOFF: Objection. 11:08:14AM
22 A I don't know what he did at that time. 11:08:14AM
23 **Q Do you know whether it was a 11:08:18AM**
24 requirement to go through any tests at that time
25 to be elevated to sergeant?

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. 11:08:23AM
3 A At that time, I don't know. 11:08:24AM
4 **Q Was there a sergeant at the time you 11:08:27AM**
5 interviewed?
6 A That I was aware of at that time? 11:08:30AM
7 **Q Yes. 11:08:33AM**
8 A No. 11:08:33AM
9 **Q So you interviewed with Golopi and 11:08:38AM**
10 Paradiso. Did you interview with anyone else?
11 A No. 11:08:43AM
12 **Q And who offered you the job? 11:08:43AM**
13 A I believe I received a phone call from 11:08:46AM
14 Bob Golopi that said they were going to accept
15 my application and sponsor me to go to the
16 police academy.
17 **Q Did you have any jobs prior to that, 11:08:57AM**
18 outside of law enforcement?
19 A Yes. 11:09:02AM
20 **Q What did you do just prior to starting 11:09:02AM**
21 the academy?
22 A I worked in a delicatessen. 11:09:08AM
23 **Q Did you apply for a certain position 11:09:11AM**
24 at Ocean Beach?
25 A I believe it was just seasonal police 11:09:23AM

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1 **GEORGE HESSE**
2 officer.
3 **Q And were you hired for a seasonal 11:09:30AM**
4 police officer position?
5 A Yes. 11:09:33AM
6 **Q What's your understanding of what a 11:09:35AM**
7 seasonal police officer is?
8 A The classification of a seasonal 11:09:39AM
9 police officer is a police officer that works
10 between the time frame of two weeks prior to
11 Memorial Day to two weeks after Labor Day.
12 **Q And that's the job that you had when 11:09:50AM**
13 you were first were hired there?
14 A That's what I was told, yes. 11:09:54AM
15 **Q So you graduated the academy. Did you 11:09:55AM**
16 have to take any other tests before you were
17 able to be certified as a police officer?
18 A Just what the academy provided. 11:10:03AM
19 **Q And what were the tests in the 11:10:04AM**
20 academy?
21 A At the time, I believe there was -- 11:10:08AM
22 there's a battery of tests. You have a laws of
23 arrest test. You had a search and seizure test.
24 You have a deadly physical force test that you
25 have to pass. Then I believe at the time we

20 (Pages 77 to 80)

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1 GEORGE HESSE
2 only had three comp tests that included just
3 everything to do with anything from penal law to
4 criminal procedure law, physical -- some
5 physical training. Just had to pass a battery
6 of tests.
7 **Q Did you have to pass any tests 11:10:40AM**
8 **administered by Suffolk County Civil Service?**
9 A Prior to going to the academy, yes. 11:10:46AM
10 **Q What did you have to pass prior to 11:10:49AM**
11 **going to the academy?**
12 A Physical agility, a medical and a 11:10:52AM
13 psychological.
14 **Q Did you have to take a polygraph? 11:10:59AM**
15 A At that time, no, it wasn't a 11:11:01AM
16 requirement.
17 **Q So which of those three tests did you 11:11:03AM**
18 **take first, the agility, medical or**
19 **psychological?**
20 A Oh, I don't recall. 11:11:09AM
21 **Q Did you pass the psychological? 11:11:11AM**
22 A Yes. 11:11:13AM
23 **Q First time you took it? 11:11:14AM**
24 A Yes. 11:11:15AM
25 **Q Did you pass the medical? 11:11:15AM**

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1 GEORGE HESSE
2 A Yes. 11:11:16AM
3 **Q First file you took it? 11:11:17AM**
4 A Yes. 11:11:18AM
5 **Q Did you pass the agility? 11:11:18AM**
6 A Yes. 11:11:20AM
7 **Q The first time you took it? 11:11:20AM**
8 A Yes. 11:11:22AM
9 **Q What's your understanding of the 11:11:33AM**
10 **purpose of having to take an agility test?**
11 MR. NOVIKOFF: Objection. 11:11:40AM
12 A Purpose? I don't understand the 11:11:41AM
13 question.
14 **Q Who requires you to take a physical 11:11:45AM**
15 **agility test prior to going to the academy?**
16 MR. NOVIKOFF: Objection. 11:11:50AM
17 A I believe it's Civil Service. 11:11:50AM
18 **Q Do you understand why you have to take 11:11:52AM**
19 **an agility test prior to going to the academy?**
20 MR. CONNOLLY: Objection. 11:11:58AM
21 MR. NOVIKOFF: Objection. 11:11:58AM
22 A No, I don't. 11:11:59AM
23 **Q Do you know the reason for it? 11:12:00AM**
24 A No. 11:12:01AM
25 MR. NOVIKOFF: Objection. 11:12:03AM

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1 GEORGE HESSE
2 BY MR. GOODSTADT: 11:12:03AM
3 **Q How about the medical test, do you 11:12:03AM**
4 **know the reason why you have to take a medical**
5 **test?**
6 MR. NOVIKOFF: Objection. 11:12:07AM
7 A I guess they want to know if you're 11:12:07AM
8 physically able to handle the physical training
9 part of being a police officer. That I can
10 understand.
11 **Q How about the psychological, do you 11:12:14AM**
12 **know why you need to take a psychological test**
13 **prior to going to the academy?**
14 MR. NOVIKOFF: Objection. 11:12:21AM
15 MR. CONNOLLY: Objection. 11:12:21AM
16 A Well, as a police officer, I'm sure 11:12:22AM
17 you're going to see a lot of bad things. They
18 want to make sure you can handle it, I guess.
19 **Q At the time, you didn't need a 11:12:29AM**
20 **polygraph; is that correct?**
21 MR. NOVIKOFF: Objection. 11:12:29AM
22 A That's correct. 11:12:30AM
23 **Q Did there come a point in time where a 11:12:29AM**
24 **polygraph was a requirement to be certified as a**
25 **police officer in Suffolk County?**

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1 GEORGE HESSE
2 A I believe there was. 11:12:34AM
3 MR. NOVIKOFF: Objection. 11:12:39AM
4 MR. CALLAHAN: Objection. 11:12:43AM
5 MR. CONNOLLY: Wait a second before 11:12:44AM
6 you answer. This way, if anyone is going to
7 object, we can get it on the record.
8 BY MR. GOODSTADT: 11:13:11AM
9 **Q At the time that you went to the 11:13:11AM**
10 **academy, there was no requirement from Suffolk**
11 **County Civil Service to take a polygraph,**
12 **correct?**
13 MR. NOVIKOFF: Objection. 11:13:19AM
14 A Correct. 11:13:20AM
15 **Q Did there come a point in time where 11:13:22AM**
16 **that requirement was put into place by Suffolk**
17 **County Civil Service?**
18 MR. NOVIKOFF: Objection. 11:13:28AM
19 A I believe so. 11:13:29AM
20 **Q Do you know when that happened? 11:13:30AM**
21 A No. 11:13:33AM
22 **Q Do you know approximately what year it 11:13:33AM**
23 **was?**
24 A No. 11:13:35AM
25 **Q Do you know the reason why a potential 11:13:36AM**

21 (Pages 81 to 84)

Page 85

1 **GEORGE HESSE**
2 **police officer needs to take a polygraph to be**
3 **certified in Suffolk County?**
4 MR. CONNOLLY: Objection. 11:13:47AM
5 MR. NOVIKOFF: Objection. 11:13:48AM
6 A I don't know why. 11:13:49AM
7 **Q Do you know whether those tests are 11:13:50AM**
8 **required by Civil Service law?**
9 MR. NOVIKOFF: Objection. 11:13:54AM
10 A No. I don't know if they're required. 11:13:56AM
11 **Q You don't know one way or the other? 11:13:57AM**
12 A No. 11:14:00AM
13 **Q How about a background test, did you 11:14:01AM**
14 **have to go through a background check?**
15 A Yes. 11:14:05AM
16 **Q Is that a Civil Service requirement? 11:14:06AM**
17 MR. NOVIKOFF: Objection. 11:14:08AM
18 A You know, I don't know. 11:14:10AM
19 **Q How about now? Do you know if a 11:14:12AM**
20 **background check is required to be certified as**
21 **a police officer in Suffolk County?**
22 MR. NOVIKOFF: Objection. 11:14:21AM
23 MR. CALLAHAN: Objection. 11:14:22AM
24 A I don't know. 11:14:23AM
25 **Q Have you ever worked any other jobs 11:14:28AM**

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1 **GEORGE HESSE**
2 **during your employment at Ocean Beach?**
3 A Yes. 11:14:31AM
4 **Q What other jobs have you worked while 11:14:32AM**
5 **employed as an Ocean Beach police officer?**
6 A I worked part-time for the Town of 11:14:36AM
7 Islip with their harbor police unit.
8 **Q When did you do that? 11:14:44AM**
9 A I may have started there in '94 or '95 11:14:49AM
10 at some point, and then I took a leave of
11 absence for a little while from that job and
12 then I went back. I don't remember the exact
13 year I went back. I'd have to look at some
14 records or something.
15 **Q Did you have any other jobs other than 11:15:13AM**
16 **for the part-time Town of Islip Harbor Police**
17 **job while you were employed by Ocean Beach?**
18 A I worked with a local carpenter for a 11:15:21AM
19 little while in Ocean Beach.
20 **Q Who was that? 11:15:25AM**
21 A His name was Tommy or Thomas Nolter, 11:15:26AM
22 N-O-L-T-E-R.
23 **Q What years did you do that? 11:15:32AM**
24 A I believe it was '95 through '97. 11:15:35AM
25 **Q Did he pay you to do that? 11:15:41AM**

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1 **GEORGE HESSE**
2 A Yes. 11:15:43AM
3 **Q Did you pay taxes on that money? 11:15:44AM**
4 A No, I believe it was cash. 11:15:46AM
5 **Q I just want to -- just so I'm clear. 11:15:58AM**
6 **I know that it was cash, but did you declare it**
7 **on your tax returns that you made that cash?**
8 A No. 11:16:07AM
9 **Q How come? 11:16:07AM**
10 MR. CONNOLLY: Objection. 11:16:08AM
11 You can answer. 11:16:10AM
12 A I don't recall why I didn't, but I 11:16:14AM
13 didn't.
14 **Q Have you ever been disciplined in your 11:16:22AM**
15 **employment at Ocean Beach?**
16 MR. NOVIKOFF: Objection. 11:16:26AM
17 A No. 11:16:27AM
18 **Q Ever been suspended? 11:16:30AM**
19 A No. 11:16:32AM
20 **Q Do you know who F. Ethan Repp is? 11:16:33AM**
21 A Yes. 11:16:39AM
22 **Q Who is that? 11:16:39AM**
23 A He was, I think, a superintendent of 11:16:40AM
24 the village for a short period.
25 **Q Did you ever have any interaction with 11:17:13AM**

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1 **GEORGE HESSE**
2 **Mr. Repp?**
3 A Yes. 11:17:15AM
4 **Q And what interaction did you have with 11:17:16AM**
5 **Mr. Repp?**
6 A He was in charge of the village. 11:17:19AM
7 **Q Do you recall Mr. Repp asked you for a 11:17:21AM**
8 **set of keys to the barracks?**
9 A Yes, I do now. 11:17:27AM
10 **Q What do you mean, you do now? 11:17:31AM**
11 A I do remember having a slight incident 11:17:33AM
12 with him.
13 **Q And what was the slight incident you 11:17:36AM**
14 **had?**
15 A He wanted a key to the barracks, and I 11:17:38AM
16 refused to give him one.
17 **Q Why? 11:17:44AM**
18 A Because the chief wasn't there to 11:17:44AM
19 authorize me to give him a key.
20 **Q How many times did he request a key? 11:17:50AM**
21 A I don't recall. 11:17:52AM
22 **Q Do you know whether he wrote you up 11:17:56AM**
23 **for that?**
24 A Yes. 11:18:01AM
25 **Q He did write you up? 11:18:02AM**

22 (Pages 85 to 88)

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1 **GEORGE HESSE**
2 A Yes, he did. 11:18:03AM
3 **Q So you -- do you consider that 11:18:04AM**
4 **discipline?**
5 A Yes. 11:18:07AM
6 **Q So going back to my question before, 11:18:08AM**
7 **you actually have been disciplined, correct?**
8 A Yes. 11:18:13AM
9 **Q Any other incidents of discipline 11:18:13AM**
10 **during your employment at Ocean Beach?**
11 A Not that I recall. 11:18:17AM
12 MR. NOVIKOFF: Case is over. 11:18:25AM
13 MR. GOODSTADT: What was that? 11:18:26AM
14 MR. NOVIKOFF: I'm just talking to 11:18:28AM
15 Mike.
16 BY MR. GOODSTADT: 11:18:31AM
17 **Q You were hired for a seasonal police 11:18:33AM**
18 **officer position, correct?**
19 MR. NOVIKOFF: Objection. 11:18:38AM
20 A Originally, yes. 11:18:39AM
21 **Q So at any point in time, did that 11:18:40AM**
22 **title change?**
23 A Yes. 11:18:45AM
24 **Q When did that title change for the 11:18:46AM**
25 **first time?**

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1 **GEORGE HESSE**
2 A I believe it was November of '95. 11:18:48AM
3 **Q And what did your seasonal title 11:18:53AM**
4 **change to in November of '95?**
5 A Full-time police officer. 11:18:56AM
6 **Q So how many seasons did you work as a 11:19:02AM**
7 **seasonal police officer?**
8 A Two. 11:19:07AM
9 **Q Did you work the off season during 11:19:07AM**
10 **those two years?**
11 A Yes. 11:19:10AM
12 **Q So were you a part-time police officer 11:19:11AM**
13 **at any point between the seasonal position when**
14 **you were first hired and the change to full-time**
15 **in '95?**
16 MR. NOVIKOFF: Objection to form. 11:19:19AM
17 A Yes. 11:19:20AM
18 **Q What did it change to, part-time? 11:19:21AM**
19 A At that time, I didn't know. I just 11:19:25AM
20 continued service.
21 **Q Was there a lieutenant for the 11:19:37AM**
22 **department at all during your employment there?**
23 A No. 11:19:43AM
24 **Q What paperwork did you fill out when 11:19:54AM**
25 **you first started working there in connection**

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1 **GEORGE HESSE**
2 **with your employment, when you first started**
3 **working at Ocean Beach or just prior to it?**
4 A Paperwork? I believe there was some 11:20:08AM
5 kind of questionnaire I had to fill out, an
6 application.
7 **Q Are you aware of something called the 11:20:13AM**
8 **Ocean Beach Police Department applicant**
9 **investigation section?**
10 A Yeah, that would be me. 11:20:18AM
11 **Q What is that? 11:20:20AM**
12 A That was just some title that I gave 11:20:21AM
13 myself because we had -- I was dealing with
14 Suffolk County at that point to process new
15 applicants that were coming in.
16 **Q When did you give yourself that title? 11:20:31AM**
17 A I don't know the date. 11:20:34AM
18 **Q Do you recall what year it was? 11:20:35AM**
19 A Maybe 2005. 11:20:40AM
20 **Q Was there an applicant investigation 11:20:44AM**
21 **section in Ocean Beach prior to you giving**
22 **yourself that title?**
23 A No. 11:20:50AM
24 **Q Did you have any training for that? 11:20:50AM**
25 A No. 11:20:53AM

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1 **GEORGE HESSE**
2 **Q Is that -- was that a Civil Service 11:20:55AM**
3 **title?**
4 A No. 11:20:58AM
5 **Q Did you ever alert anybody that you 11:20:59AM**
6 **gave yourself that title?**
7 A No. 11:21:03AM
8 **Q Did you -- did the Board of Trustees 11:21:06AM**
9 **in Ocean Beach pass any resolution awarding that**
10 **title?**
11 A No. 11:21:12AM
12 MR. NOVIKOFF: Objection. 11:21:13AM
13 BY MR. GOODSTADT: 11:21:13AM
14 **Q Why did you give yourself that title? 11:21:17AM**
15 A Because I was the new applicant 11:21:19AM
16 investigation unit for the Ocean Beach Police
17 Department.
18 **Q Well, who did the new applicant 11:21:24AM**
19 **investigations prior to you awarding yourself**
20 **that title?**
21 A Suffolk County PD. 11:21:30AM
22 **Q Did you alert the Suffolk County PD 11:21:32AM**
23 **that you now awarded yourself that title?**
24 A No. 11:21:37AM
25 **Q What were you investigating as the 11:21:39AM**

23 (Pages 89 to 92)

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1 **GEORGE HESSE**
2 **Ocean Beach Police Department applicant**
3 **investigation section?**
4 A Just new police officers. 11:21:47AM
5 **Q What did you do to investigate?** 11:21:49AM
6 A I had them fill out a questionnaire. 11:21:52AM
7 It required a ton of documentation. I reviewed
8 the documents. I sent out letters to previous
9 employers that they had for responses to see
10 what their work -- you know, if they were in
11 good standing with their previous jobs. I had
12 to send out a mental health release form to the
13 New York State Department of Health Services to
14 see if they had any previous mental health
15 issues that would stop them from becoming a
16 police officer. I'm sure there's a lot of other
17 assorted things, but I don't have an application
18 in front of me to go through.
19 **Q Where did you get the questionnaire** 11:22:38AM
20 **that you distributed to new applicants?**
21 A Some of it was from Suffolk County PD 11:22:43AM
22 and their applicant investigation unit. They
23 sent me a copy. I went online. I found other
24 applications from other police departments that
25 I thought would help out in having people fill

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1 **GEORGE HESSE**
2 out these applications.
3 **Q Did anyone from the county approve the** 11:22:59AM
4 **packet that you put together?**
5 A No. 11:23:03AM
6 **Q Did you create the questionnaire** 11:23:03AM
7 **packet?**
8 A Yes. 11:23:06AM
9 **Q Was it only distributed to new** 11:23:08AM
10 **applicants?**
11 A Yes. 11:23:12AM
12 **Q Did you do a criminal background** 11:23:20AM
13 **check?**
14 A Yes. 11:23:22AM
15 **Q Anything else other than what you** 11:23:24AM
16 **testified to and now the criminal background**
17 **check that you did to investigate new**
18 **applicants?**
19 A I don't know. 11:23:32AM
20 **Q Did people who previously worked at** 11:23:40AM
21 **Ocean Beach have to go through the applicant**
22 **investigation section?**
23 A Current -- officers that were 11:23:47AM
24 currently employed?
25 **Q Yes.** 11:23:50AM

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1 **GEORGE HESSE**
2 A No. 11:23:50AM
3 **Q Including full-time, part-time,** 11:23:54AM
4 **seasonal guys who had already been employed?**
5 A There was only one that had to redo 11:24:00AM
6 his application.
7 **Q Who was that?** 11:24:04AM
8 A Ty Bacon. 11:24:05AM
9 **Q Why did he have to redo the** 11:24:05AM
10 **application?**
11 A Because I believe Civil Service had 11:24:08AM
12 made a mistake with his certification to be a
13 police officer in Suffolk County, and they
14 required that he had to take the battery of
15 tests that are required before employment.
16 **Q Did Gary Bosetti have to fill it out?** 11:24:27AM
17 A Yes. 11:24:29AM
18 **Q How come?** 11:24:30AM
19 A Technically, he was a new hire, and he 11:24:31AM
20 had to take the polygraph. The polygraph is
21 based on the application.
22 **Q What do you mean by technically he was** 11:24:40AM
23 **a new hire?**
24 A Because he was hired by the village, 11:24:42AM
25 and apparently there was some sort of confusion

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1 **GEORGE HESSE**
2 with his status to become a police officer
3 within Suffolk County; and in order to get
4 through Suffolk County Civil Service's battery
5 of tests, he had to fill out this application.
6 **Q Do you know when that was?** 11:25:01AM
7 A It might have been 2005. 11:25:02AM
8 **Q But he had worked there prior to 2005,** 11:25:03AM
9 **right?**
10 A Yes. 11:25:06AM
11 **Q So he had worked there prior to** 11:25:06AM
12 **passing the battery of tests?**
13 A Yes. 11:25:10AM
14 **Q Anyone else fit that same category of** 11:25:10AM
15 **people who had worked there prior but still**
16 **needed to fill out your applicant investigation**
17 **section report?**
18 A Yes. 11:25:19AM
19 **Q Who else what was that?** 11:25:19AM
20 A I believe there was Rich Bosetti, 11:25:21AM
21 Tommy Shaw. I already mentioned Ty Bacon. Who
22 else at that time? There was someone that --
23 oh, John Dyer. What was his name? There was a
24 gentleman that retired from New York City PD as
25 a lieutenant. I can't think of his name. Maybe

24 (Pages 93 to 96)

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1 GEORGE HESSE
2 there was Pat Cherry also, but he chose not to
3 resume as a police officer with Ocean Beach.
4 **Q Pat Cherry, Sr.? 11:26:09AM**
5 A Correct. 11:26:11AM
6 **Q There was one other you said? 11:26:11AM**
7 A Yeah. I can't think of his name. 11:26:13AM
8 **Q Is there anything that would help 11:26:14AM**
9 refresh your recollection?
10 A I'm sure you have a list of every 11:26:18AM
11 police officer that worked in Ocean Beach. If
12 you give me the list, I'm sure I can find it.
13 **Q We'll give you the list in a bit. 11:26:26AM**
14 A Excuse me. 11:26:28AM
15 **Q Does a police officer have to graduate 11:26:34AM**
16 the academy prior to being certified to be a
17 police officer?
18 MR. NOVIKOFF: Objection. 11:26:40AM
19 A To my recollection, there are some 11:26:43AM
20 technicalities with that.
21 **Q What are the technicalities? 11:26:47AM**
22 A I believe you could be hired as a 11:26:48AM
23 police officer, but within that calendar year at
24 some point you have to graduate a police
25 academy.

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1 GEORGE HESSE
2 **Q Okay. Any other technicalities? 11:26:57AM**
3 A Not that I'm aware of. 11:26:59AM
4 **Q Does it have to be the Suffolk County 11:27:00AM**
5 police academy?
6 A No. 11:27:03AM
7 **Q So it can be New York City police 11:27:03AM**
8 academy?
9 A Correct. 11:27:06AM
10 **Q It could be Nassau County police 11:27:07AM**
11 academy?
12 A Correct. 11:27:11AM
13 **Q Are there different radio codes in New 11:27:11AM**
14 York City than Suffolk County?
15 MR. CONNOLLY: What time frame? 11:27:17AM
16 MR. GOODSTADT: Any point in time. 11:27:18AM
17 A Yes. 11:27:19AM
18 **Q So why don't we focus on 2002 to 2006. 11:27:19AM**
19 Were there different radio codes?
20 A I believe so. 11:27:23AM
21 **Q Do the officers in Ocean Beach need to 11:27:25AM**
22 know the Suffolk County radio codes?
23 A They should be aware of them, yes. 11:27:29AM
24 **Q It's important that they're aware of 11:27:31AM**
25 them?

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1 GEORGE HESSE
2 A Yeah, to a point. 11:27:33AM
3 **Q Do you think it's important to the 11:27:35AM**
4 public safety that the police officers are aware
5 of the radio codes?
6 MR. NOVIKOFF: Objection to the form. 11:27:40AM
7 I don't know what you mean by public safety.
8 Are you using it in the context of a 740
9 claim or just a general definition?
10 MR. GOODSTADT: Both. 11:27:49AM
11 MR. NOVIKOFF: Objection to form. 11:27:50AM
12 A Repeat the question. 11:27:51AM
13 MR. NOVIKOFF: Calls for a legal 11:27:53AM
14 conclusion as well.
15 BY MR. GOODSTADT: 11:27:55AM
16 **Q Do you think it's important to the 11:27:55AM**
17 public's safety that police officers in Ocean
18 Beach know the radio codes?
19 MR. NOVIKOFF: Note my objection. 11:28:01AM
20 A I think they should be familiarized 11:28:02AM
21 with them, yes.
22 **Q Do you think it's important to public 11:28:05AM**
23 safety?
24 MR. NOVIKOFF: Note my objection. 11:28:06AM
25 A It's not detrimental, no. 11:28:07AM

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1 GEORGE HESSE
2 **Q It's not detrimental to public safety 11:28:09AM**
3 for police officers --
4 A No. 11:28:13AM
5 **Q You don't think it's detrimental to 11:28:13AM**
6 the public's safety if police officers don't
7 know the radio codes that are being addressed to
8 them?
9 MR. NOVIKOFF: Objection to the form 11:28:22AM
10 of the question.
11 BY MR. GOODSTADT: 11:28:23AM
12 **Q Is that your testimony? 11:28:24AM**
13 A There's more to it, but yeah. 11:28:25AM
14 **Q What do you mean there's more to it? 11:28:27AM**
15 A Because since 2001, FEMA has 11:28:29AM
16 established the plain-talk doctrine since 2001.
17 You say the 10 code or any code, and then you
18 say what the actual call is.
19 **Q And that's in place in Ocean Beach? 11:28:46AM**
20 A That's in place, correct. 11:28:48AM
21 **Q What's the sense of having a radio 11:28:55AM**
22 code if you're doing the public talk now?
23 MR. NOVIKOFF: Objection to the form 11:28:59AM
24 of the question.
25 MR. CONNOLLY: Objection. You can 11:29:02AM

25 (Pages 97 to 100)

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1 GEORGE HESSE
 2 answer.
 3 A Repeat that. 11:29:05AM
 4 **Q Yeah. Why would you need a radio code 11:29:06AM**
 5 **if you have a public-talk doctrine?**
 6 MR. NOVIKOFF: Objection to the form. 11:29:13AM
 7 A To tell you the truth, at this point I 11:29:14AM
 8 don't know why.
 9 **Q At any point in time, did you know 11:29:17AM**
 10 **why?**
 11 MR. NOVIKOFF: Objection to form. 11:29:20AM
 12 A I have an opinion. 11:29:21AM
 13 **Q What's your opinion? 11:29:22AM**
 14 A My opinion was it's to shorten 11:29:23AM
 15 communications on the radio.
 16 **Q I'm saying if you have -- why would 11:29:26AM**
 17 **you still need radio codes since 2001 if you're**
 18 **required to also say public talk?**
 19 MR. NOVIKOFF: Objection as to form. 11:29:37AM
 20 Foundation.
 21 MR. CONNOLLY: Objection. 11:29:39AM
 22 A I don't know. 11:29:40AM
 23 MR. GOODSTADT: And when I say "public 11:29:42AM
 24 talk," I mean plain talk. I don't know if
 25 that's the basis of the objection. That's

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1 GEORGE HESSE
 2 what I mean.
 3 BY MR. GOODSTADT: 11:29:49AM
 4 **Q I'm assuming you know understood what 11:29:49AM**
 5 **I meant, correct?**
 6 MR. CONNOLLY: Why don't we repeat the 11:29:52AM
 7 question using plain talk.
 8 A I don't recall. 11:29:56AM
 9 **Q Since 2001, there's a plain talk 11:29:57AM**
 10 **doctrine, correct?**
 11 A Yes. 11:30:01AM
 12 **Q So when a radio code is sent over the 11:30:01AM**
 13 **radio, they say, you know, 10/1 officer in need**
 14 **of -- you know, officer's life in danger. Is**
 15 **that what they say, something like that?**
 16 MR. NOVIKOFF: Objection. 11:30:14AM
 17 BY MR. GOODSTADT: 11:30:15AM
 18 **Q Is that what you mean by public talk? 11:30:16AM**
 19 MR. NOVIKOFF: Objection. 11:30:19AM
 20 A I think everybody knows what a 10/1 11:30:19AM
 21 is. I don't care where you come from. But you
 22 could tell from somebody's tone of voice on the
 23 radio that they need assistance.
 24 **Q What do you mean by everyone knows 11:30:31AM**
 25 **what a 10/1 is?**

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1 GEORGE HESSE
 2 A Everybody knows what a 10/1 is on this 11:30:34AM
 3 job.
 4 **Q Isn't it true that Arnold Hardman 11:30:38AM**
 5 **failed to respond to a 10/1 by Nofi?**
 6 MR. NOVIKOFF: Objection. Leading. 11:30:46AM
 7 Foundation. Form.
 8 A No. 11:30:50AM
 9 **Q It's not true? 11:30:51AM**
 10 A I don't believe so. 11:30:53AM
 11 **Q Nofi never complained to you that 11:30:57AM**
 12 **Hardman didn't know what the code was, he**
 13 **thought it was a threat to him?**
 14 MR. NOVIKOFF: Objection. Leading. 11:31:05AM
 15 Form.
 16 A No. 11:31:06AM
 17 **Q Since 2001 in Ocean Beach, do all 11:31:12AM**
 18 **radio codes that have been sent out over the**
 19 **radio include the code and then the plain talk?**
 20 MR. NOVIKOFF: Objection. Form. 11:31:21AM
 21 Foundation.
 22 A Repeat the question, please. 11:31:23AM
 23 **Q Yeah. Since 2001, when FEMA put in 11:31:25AM**
 24 **their plain talk doctrine, do all radio codes**
 25 **that are sent to the Ocean Beach police officers**

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1 GEORGE HESSE
 2 **over the radio include both the code and the**
 3 **plain talk?**
 4 A Yes. 11:31:37AM
 5 MR. NOVIKOFF: Objection. Is the 11:31:38AM
 6 question is that a requirement or does he
 7 know if every single one that has been
 8 transmitted even outside his presence had
 9 that?
 10 BY MR. GOODSTADT: 11:31:46AM
 11 **Q Well, have you ever heard one that was 11:31:47AM**
 12 **transmitted without the plain talk?**
 13 A No. 11:31:51AM
 14 **Q Just going back. You don't recall 11:31:55AM**
 15 **Nofi complaining to you that Hardman didn't**
 16 **respond to his 10/1?**
 17 MR. CONNOLLY: Objection. 11:32:02AM
 18 A No. 11:32:02AM
 19 MR. NOVIKOFF: Just note my objection 11:32:08AM
 20 to that last question.
 21 BY MR. GOODSTADT: 11:32:22AM
 22 **Q We discussed before that there was a 11:32:23AM**
 23 **battery of tests that you have to pass before**
 24 **going to the police academy to be certified as a**
 25 **police officer.**

26 (Pages 101 to 104)

Page 105

1 **GEORGE HESSE**
2 **Who in Ocean Beach since 2000 has been 11:32:30AM**
3 **charged with ensuring that the officers who are**
4 **hired have actually passed those tests?**
5 MR. NOVIKOFF: Objection. Foundation. 11:32:39AM
6 Form.
7 MR. CONNOLLY: Time frame. 11:32:43AM
8 A Since 2000? 11:32:45AM
9 **Q Since 2000, that's the time frame. 11:32:45AM**
10 A Since 2000 till the present? 11:32:48AM
11 **Q Yes. 11:32:50AM**
12 A From 2000 through 2006 would be Ed 11:32:51AM
13 Paradiso. From 2006 till present would be me.
14 MR. GOODSTADT: Okay, we can -- 11:32:59AM
15 THE VIDEOGRAPHER: That the is end of 11:33:01AM
16 Tape Number 1.
17 The time is now 11:33 a.m. We are now 11:33:03AM
18 off the record.
19 (Whereupon, a discussion was held off 11:33:07AM
20 the record.)
21 THE VIDEOGRAPHER: This is the start 11:49:25AM
22 of Tape Number 2.
23 The time is now 11:49 a.m. We are now 11:49:27AM
24 back on the record.
25

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 11:49:31AM
3 **Q Sir, before we went off the record, 11:49:31AM**
4 **I'd asked you a question about jobs that you had**
5 **while you were employed by Ocean Beach, and you**
6 **told me about a harbor job and you told me about**
7 **a job with a carpenter, correct?**
8 A Yes. 11:49:46AM
9 **Q Did you also work for Ian Levine at 11:49:47AM**
10 **Sky Cable?**
11 A Yes. 11:49:51AM
12 **Q And when did you work for Ian Levine 11:49:51AM**
13 **at Sky Cable?**
14 A I believe I worked for him from -- I'm 11:50:00AM
15 really going to be guessing, but maybe '97
16 through a little bit of 2000. I'm not real sure
17 exactly what the dates are.
18 **Q And did he pay you for that work? 11:50:18AM**
19 A Yes. 11:50:19AM
20 **Q Did you pay taxes on the pay that you 11:50:20AM**
21 **received from Mr. Levine?**
22 A No. 11:50:24AM
23 **Q So he paid you cash as well? 11:50:24AM**
24 A Yes. 11:50:26AM
25 **Q And you didn't declare that on your 11:50:26AM**

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1 **GEORGE HESSE**
2 **income tax returns?**
3 A No. 11:50:29AM
4 **Q How come? 11:50:30AM**
5 A Just didn't. 11:50:32AM
6 MR. NOVIKOFF: Objection. 11:50:35AM
7 BY MR. GOODSTADT: 11:50:36AM
8 **Q So other than for the Sky Cable job, 11:50:39AM**
9 **the carpenter job and the harbor job, did you**
10 **have any other jobs while you were employed by**
11 **Ocean Beach?**
12 A In the beginning, I worked for the 11:50:48AM
13 deli, I guess from '93 to -- from '93 to
14 somewhere in '95 maybe.
15 **Q That same deli you had worked at 11:50:59AM**
16 **beforehand?**
17 A I worked at a couple of different 11:51:02AM
18 delis, yes.
19 **Q Is Ian Levine a resident of Ocean 11:51:10AM**
20 **Beach?**
21 MR. NOVIKOFF: Objection. Form. 11:51:13AM
22 Foundation.
23 A Yes. 11:51:15AM
24 **Q Where is his home or property? 11:51:16AM**
25 A I'm trying to think of the exact 11:51:23AM

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1 **GEORGE HESSE**
2 address. He owns a home with his wife on Ocean
3 Breeze. I don't know the exact address.
4 **Q Have you ever been to his home? 11:51:33AM**
5 A Yes. 11:51:35AM
6 **Q Does he live there full time in Ocean 11:51:36AM**
7 **Beach?**
8 A He does, yes. 11:51:39AM
9 **Q How many times have you been to his 11:51:40AM**
10 **house?**
11 A Numerous times. 11:51:45AM
12 **Q Ever been there on non-police 11:51:47AM**
13 **business?**
14 A Yes. 11:51:50AM
15 **Q Social visits? 11:51:51AM**
16 A Once or twice, yes. 11:51:52AM
17 **Q Are you friends with Ian Levine? 11:51:54AM**
18 A We're acquaintances. 11:51:58AM
19 **Q Now, you testified before about your 11:52:01AM**
20 **harbor job. Who did you report to in your**
21 **harbor job?**
22 A Al Loeffler. He was the chief. 11:52:06AM
23 **Q He was the chief. What was the title 11:52:09AM**
24 **there?**
25 MR. NOVIKOFF: His title or 11:52:12AM

27 (Pages 105 to 108)

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1 GEORGE HESSE
2 Mr. Loeffler's?
3 BY MR. GOODSTADT: 11:52:15AM
4 Q What was Mr. Loeffler's title there? 11:52:15AM
5 A He was chief, but his exact Civil 11:52:18AM
6 Service title, I don't know.
7 Q But you called him chief? 11:52:21AM
8 A I called him chief on occasion, yes. 11:52:23AM
9 Q You reported to him at that job? 11:52:29AM
10 A Yes. 11:52:32AM
11 Q Did he work as a police officer on 11:52:32AM
12 Ocean Beach at any time?
13 A Yes. 11:52:36AM
14 Q When did he work as an officer on 11:52:37AM
15 Ocean Beach?
16 A From 1973 till maybe 2002 or '3 or '4. 11:52:40AM
17 I don't know.
18 Q Did he report to you in his job as a 11:52:54AM
19 police officer in Ocean Beach?
20 A At some point, yes. 11:52:59AM
21 Q At the same time you had the harbor 11:53:01AM
22 job and you were reporting to him, was he also
23 reporting to you in the beach job?
24 A There was a time, yes. 11:53:09AM
25 Q Is he related to Mayor Joe Loeffler at 11:53:10AM

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1 GEORGE HESSE
2 all?
3 A Yes. 11:53:14AM
4 Q What's the relationship? 11:53:15AM
5 A Brothers. 11:53:17AM
6 Q And how long did you work the harbor 11:53:24AM
7 job? When did you stop working there?
8 A I believe I started somewhere around 11:53:28AM
9 the end of '94, maybe somewhere in '95. I
10 worked maybe two, three years, at the most.
11 Then I took a leave for some time, and then I
12 went back maybe 2002. I'm not real sure.
13 Q 2002 until when? 11:53:52AM
14 A Until I got indicted. 11:53:53AM
15 Q And what happened when you got 11:54:00AM
16 indicted?
17 A March 27th, I got a phone call from 11:54:03AM
18 Bob Scroi, and I was told I was suspended.
19 Q Who is Bob Scroi? 11:54:10AM
20 A He is now the current chief of the 11:54:12AM
21 Islip harbor police.
22 Q When did Allen Loeffler stop being the 11:54:16AM
23 chief?
24 A It's possible 2005. 11:54:20AM
25 Q After he had left the Ocean Beach 11:54:24AM

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1 GEORGE HESSE
2 police force?
3 A He may have stayed on for a short 11:54:28AM
4 period after he left the town job. I really
5 don't know.
6 Q Who is Bob Scroi? Is that the name 11:54:39AM
7 you used?
8 A Uh-huh. 11:54:44AM
9 Q Who is he? 11:54:44AM
10 A He's the chief of the Islip harbor 11:54:44AM
11 police now.
12 Q And he told you that you were 11:54:47AM
13 suspended when you got indicted?
14 A Yes. 11:54:51AM
15 Q Are you still currently suspended? 11:54:51AM
16 A Yes. 11:54:53AM
17 Q Have you applied to get the job back 11:54:54AM
18 there at the harbor?
19 A We've spoken about it, yes. 11:54:58AM
20 Q You spoke to who about it? 11:55:01AM
21 A Bob Scroi. 11:55:03AM
22 Q What was the substance of the 11:55:04AM
23 conversation?
24 A He is -- he said he was looking into 11:55:06AM
25 it. I believe public safety just got a new

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1 GEORGE HESSE
2 commissioner; and I met the commissioner, and we
3 just talked about possibly coming back. Nothing
4 solid, but we talked about possibly coming back
5 to work.
6 Q Has a decision been made one way or 11:55:23AM
7 the other?
8 MR. NOVIKOFF: Objection. 11:55:28AM
9 A Not that I'm aware of. 11:55:29AM
10 Q Did you fill out any paperwork to get 11:55:30AM
11 the job back?
12 A No. 11:55:33AM
13 Q I just want to go back to the FEMA 11:55:34AM
14 doctrine, because I was a little bit confused as
15 to what it was. The FEMA doctrine, the plain --
16 what is it, the plain talk?
17 A It's the plain-talk doctrine. 11:55:43AM
18 Q The plain-talk doctrine? 11:55:45AM
19 A Uh-huh. 11:55:48AM
20 Q Is that -- the plain-talk doctrine, 11:55:48AM
21 does that apply to interagency transmissions or
22 is that also within an agency that the
23 plain-talk doctrine applies to?
24 MR. NOVIKOFF: Objection to form. 11:56:00AM
25 A It's my understanding it applies to 11:56:00AM

28 (Pages 109 to 112)

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1 GEORGE HESSE
2 all jobs now.
3 **Q And when did it apply to all jobs? 11:56:03AM**
4 **When did that start?**
5 MR. NOVIKOFF: Objection to form. 11:56:07AM
6 A I don't know the exact date. 11:56:08AM
7 **Q Had it always applied to all jobs? 11:56:10AM**
8 MR. NOVIKOFF: Objection. 11:56:13AM
9 A Not that I'm aware of. 11:56:14AM
10 **Q Well, I guess I'm trying to just get a 11:56:18AM**
11 **timeline.**
12 **It was put in sometime after 11:56:21AM**
13 **September 11th, correct?**
14 A Correct. 11:56:25AM
15 **Q 2001? 11:56:26AM**
16 A Correct. 11:56:26AM
17 **Q Then when it was first put in, did it 11:56:27AM**
18 **apply to all jobs or did it originally just**
19 **apply interagency?**
20 A I don't know. 11:56:36AM
21 **Q And when Suffolk County would relay a 11:56:39AM**
22 **code over the radio since 2001 to Ocean Beach**
23 **radios, they gave the code and plain talk or**
24 **just the code?**
25 MR. NOVIKOFF: Objection. Form. 11:56:53AM

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1 GEORGE HESSE
2 Foundation.
3 A They do now. 11:56:59AM
4 **Q When did that start? 11:57:00AM**
5 MR. NOVIKOFF: Objection. 11:57:02AM
6 A I don't recall. 11:57:03AM
7 **Q Was it within the last year? 11:57:04AM**
8 MR. NOVIKOFF: Objection. 11:57:06AM
9 A I don't recall. 11:57:09AM
10 **Q How about in '02, did they do it in 11:57:09AM**
11 **'02?**
12 MR. NOVIKOFF: Objection. 11:57:13AM
13 A I don't know. 11:57:13AM
14 **Q '03? 11:57:14AM**
15 MR. NOVIKOFF: Objection. 11:57:15AM
16 A I don't know. 11:57:16AM
17 **Q '04? 11:57:16AM**
18 MR. NOVIKOFF: Objection. 11:57:18AM
19 A I don't know. 11:57:18AM
20 **Q When you sent a code over the radio in 11:57:19AM**
21 **'02, did you do the radio code and the plain**
22 **talk or just the radio code?**
23 A As far back as I can remember in Ocean 11:57:30AM
24 Beach, we've always put a 10 code over and
25 pretty much said what it was afterwards, so --

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1 GEORGE HESSE
2 **Q What do you mean by "pretty much"? 11:57:40AM**
3 A It's pretty much been that way for a 11:57:42AM
4 long time for Ocean Beach.
5 **Q How long is a long time? 11:57:45AM**
6 A It could be from the beginning of when 11:57:49AM
7 I started working there.
8 **Q Okay. Have you ever transmitted a 10 11:57:53AM**
9 **code without plain talk?**
10 A Yeah. Sure. 11:58:00AM
11 **Q Since 2001? 11:58:01AM**
12 A Sure. 11:58:02AM
13 **Q Were you in violation of the FEMA 11:58:05AM**
14 **doctrine?**
15 A I may have been. 11:58:07AM
16 **Q But you don't know one way or of the 11:58:09AM**
17 **other?**
18 A No. 11:58:11AM
19 **Q And before, I think you defined what a 11:58:13AM**
20 **seasonal police officer was in Suffolk County.**
21 **Could you define what a part-time police officer**
22 **is in Suffolk County?**
23 MR. CALLAHAN: Objection to form. 11:58:24AM
24 MR. NOVIKOFF: Objection. 11:58:26AM
25 MR. CONNOLLY: Objection. 11:58:26AM

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1 GEORGE HESSE
2 A Can I answer? 11:58:29AM
3 MR. CONNOLLY: Yes. 11:58:30AM
4 A Part-time status, it could be year 11:58:33AM
5 round. It could be -- you know, this is not my
6 definition, but it's the definition, I believe,
7 that Civil Service puts out. It's my
8 understanding that a part-time police officer
9 does not work more than 20 hours a week. It
10 could be year round or it could be from two
11 weeks after Labor Day to two weeks prior to
12 Memorial Day.
13 **Q Can a seasonal officer work after the 11:58:59AM**
14 **period two weeks after Labor Day through the**
15 **period of two weeks before Memorial Day, meaning**
16 **in the off season?**
17 A No. 11:59:09AM
18 MR. NOVIKOFF: Objection to the form 11:59:10AM
19 of that question.
20 BY MR. GOODSTADT: 11:59:12AM
21 **Q So was Ed Carter a part-time officer 11:59:12AM**
22 **or a seasonal officer?**
23 MR. CONNOLLY: When? 11:59:16AM
24 MR. GOODSTADT: At any point in time 11:59:17AM
25 during his employment.

29 (Pages 113 to 116)

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1 GEORGE HESSE
 2 MR. NOVIKOFF: Objection. 11:59:21AM
 3 A I don't know. 11:59:21AM
 4 **Q Well, did Ed ever work on the off 11:59:23AM**
 5 **season --**
 6 A Sure. 11:59:27AM
 7 **Q -- based on the definition we had? 11:59:27AM**
 8 **So he couldn't have been a seasonal 11:59:29AM**
 9 **officer, according to your definition and**
 10 **understanding, correct? So the fact that he**
 11 **worked -- the fact that he worked during the off**
 12 **season based on the definition that you've given**
 13 **us, he couldn't have been a seasonal officer,**
 14 **correct? He had to have been part-time?**
 15 MR. NOVIKOFF: Objection to form. 11:59:49AM
 16 A His title is not controlled by me, so 11:59:49AM
 17 I don't know what his title was.
 18 **Q Well, his title is controlled by what? 11:59:54AM**
 19 MR. NOVIKOFF: Objection to form. 11:59:57AM
 20 Calls for a legal conclusion.
 21 BY MR. GOODSTADT: 12:00:01PM
 22 **Q What's your understanding of what his 12:00:01PM**
 23 **title is controlled by?**
 24 MR. NOVIKOFF: Objection to form. 12:00:05PM
 25 A Well, my understanding is that the 12:00:06PM

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1 GEORGE HESSE
 2 village, the village office, somebody within the
 3 village office has to fill out some sort of
 4 documentation changing his status or any
 5 officer's status.
 6 **Q Just for your understanding, if he was 12:00:23PM**
 7 **working in the off season, then he couldn't have**
 8 **been properly classified as a seasonal officer;**
 9 **is that your understanding?**
 10 MR. NOVIKOFF: Objection. 12:00:35PM
 11 A His classification could have been 12:00:42PM
 12 still seasonal. I really don't know.
 13 **Q But then he's working outside of 12:00:46PM**
 14 **class, correct?**
 15 MR. NOVIKOFF: Objection. 12:00:50PM
 16 A Oh, yeah. Yes. 12:00:51PM
 17 **Q So just so I'm clear. I just want to 12:00:54PM**
 18 **make sure I'm clear in my understanding. So**
 19 **either he was classified as part-time or he was**
 20 **misclassified if he was classified as seasonal,**
 21 **correct?**
 22 MR. NOVIKOFF: Objection to form. 12:01:05PM
 23 MR. CALLAHAN: Objection to form. 12:01:07PM
 24 MR. CONNOLLY: Objection. 12:01:08PM
 25 A Yes. 12:01:08PM

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1 GEORGE HESSE
 2 **Q Okay. So there came a point in time 12:01:09PM**
 3 **that you testified you became a full-time**
 4 **officer, correct?**
 5 A Yes. 12:01:18PM
 6 **Q Was there any kind of canvass letter 12:01:19PM**
 7 **or list that you had to come off of to get that**
 8 **position?**
 9 A Yes. 12:01:24PM
 10 **Q And you were on the Ocean Beach list; 12:01:25PM**
 11 **is that how it works?**
 12 A It's a preferred list, yes. 12:01:29PM
 13 **Q What do you mean by "preferred list"? 12:01:30PM**
 14 A It's a residents list. 12:01:32PM
 15 **Q So the residents of Ocean Beach get 12:01:38PM**
 16 **preference over other people who may be**
 17 **eligible?**
 18 A Yes. 12:01:44PM
 19 **Q Is that one of the reasons why you use 12:01:45PM**
 20 **the Ocean Beach residence as an address?**
 21 MR. NOVIKOFF: Objection. Asked and 12:01:51PM
 22 answered in the first 10 minutes of the
 23 deposition.
 24 MR. CONNOLLY: Objection. 12:01:54PM
 25 A Repeat the question. 12:01:56PM

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1 GEORGE HESSE
 2 **Q Is one of the reasons why you used 12:01:57PM**
 3 **Ocean Beach as your address to get onto that**
 4 **preferred list?**
 5 MR. NOVIKOFF: Objection. 12:02:04PM
 6 A At the time, yes. 12:02:05PM
 7 **Q How long did you hold the title of 12:02:15PM**
 8 **full-time police officer?**
 9 A From November of '95 till present. 12:02:21PM
 10 **Q So your title is police officer? 12:02:30PM**
 11 A Correct. 12:02:31PM
 12 **Q That's the same title Ed Carter had 12:02:32PM**
 13 **when he worked there?**
 14 MR. NOVIKOFF: Objection. 12:02:36PM
 15 A No. 12:02:36PM
 16 **Q He wasn't a police officer? 12:02:37PM**
 17 A Yes. 12:02:38PM
 18 **Q Well, you're full-time, he's 12:02:40PM**
 19 **part-time?**
 20 A That's correct. 12:02:43PM
 21 MR. NOVIKOFF: Objection. 12:02:44PM
 22 BY MR. GOODSTADT: 12:02:44PM
 23 **Q And you had the same title as the 12:02:45PM**
 24 **other full-time police officers in Ocean Beach?**
 25 A Yes. 12:02:49PM

30 (Pages 117 to 120)

Page 121

1 GEORGE HESSE
2 **Q Did you ever get the title of 12:02:50PM**
3 **sergeant?**
4 A Yes. 12:02:52PM
5 **Q When was that? 12:02:52PM**
6 A I believe in 2001. 12:02:53PM
7 **Q When did you first request the title 12:02:55PM**
8 **of sergeant?**
9 A Maybe in 1999. 12:03:04PM
10 **Q And how did you go about requesting 12:03:05PM**
11 **the title of sergeant?**
12 A I believe I wrote a memo to Ed 12:03:09PM
13 Paradiso.
14 **Q When was the last time you looked at 12:03:12PM**
15 **that memo?**
16 A I may have looked at it yesterday. I 12:03:19PM
17 didn't read it. I just kind of looked at it. I
18 just knew what it was.
19 **Q To prepare for today's deposition, you 12:03:24PM**
20 **looked at it?**
21 A Yes. 12:03:27PM
22 **Q Where did you look at it? 12:03:27PM**
23 A In Mr. Connolly's office in 12:03:28PM
24 Westchester.
25 MR. GOODSTADT: Please mark that as 12:03:37PM

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1 GEORGE HESSE
2 Hesse 1.
3 (Whereupon, Bates document 3856 was 12:03:40PM
4 marked as Plaintiff's Exhibit 1 for
5 identification, as of this date.)
6 MR. NOVIKOFF: This is Hesse 1? 12:04:09PM
7 MR. GOODSTADT: It is. 12:04:10PM
8 I've placed in front of Mr. Hesse 12:04:15PM
9 what's now been marked as Hesse 1. It's a
10 one-page exhibit bearing Bates No. 3856.
11 (Handing.)
12 BY MR. GOODSTADT: 12:04:22PM
13 **Q Mr. Hesse, is this the memo that 12:04:22PM**
14 **you're referring to that you wrote to Paradiso**
15 **in '99?**
16 A I believe so. 12:04:31PM
17 **Q Is that your signature on the bottom? 12:04:31PM**
18 A Yes. 12:04:33PM
19 **Q And do you see on the bottom under 12:04:33PM**
20 **your typed signature line it says "PO103." what**
21 **does that stand for?**
22 A Police officer. 12:04:40PM
23 **Q Right. 12:04:43PM**
24 A Then my shield number is 103. 12:04:43PM
25 **Q And what is the slash 8900? 12:04:45PM**

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1 GEORGE HESSE
2 A And that would be our command number. 12:04:48PM
3 **Q What do you mean by command number? 12:04:50PM**
4 A It's a number designating our police 12:04:52PM
5 department within the County of Suffolk.
6 **Q And you see the CC on the bottom, 12:04:58PM**
7 **Chief Paradiso correspondence file and original**
8 **to your personnel file.**
9 **Do you see that? 12:05:04PM**
10 A Yes. 12:05:05PM
11 **Q Do you know who wrote that? 12:05:05PM**
12 A No. 12:05:06PM
13 **Q That's not your handwriting? 12:05:07PM**
14 A No. 12:05:08PM
15 **Q And then you see a stamp on the bottom 12:05:09PM**
16 **that says "Received February 18th, 1999."**
17 **Do you see that? 12:05:13PM**
18 A Yes. 12:05:14PM
19 **Q Do you know who stamped that? 12:05:14PM**
20 A No. 12:05:16PM
21 **Q How did you deliver this to the chief? 12:05:16PM**
22 A I may have just left it on his desk. 12:05:20PM
23 **Q Was this the letterhead of Ocean Beach 12:05:23PM**
24 **at the time?**
25 A At the time, yes. 12:05:27PM

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1 GEORGE HESSE
2 **Q Do you know who created the letterhead 12:05:28PM**
3 **for Ocean Beach?**
4 A No. 12:05:31PM
5 **Q Okay. And now you asked for a 12:05:32PM**
6 **provisional appointment to sergeant.**
7 **Do you see that? 12:05:37PM**
8 A Yes. 12:05:38PM
9 **Q What does that mean, a provisional 12:05:38PM**
10 **appointment?**
11 A I believe that you could be appointed 12:05:42PM
12 provisionally to a certain position pending the
13 taking of the next scheduled test.
14 **Q What's the basis of your belief on 12:05:49PM**
15 **that?**
16 A Somebody, I think, told me that. 12:05:53PM
17 **Q Do you know who told you that? 12:05:55PM**
18 A I don't recall. 12:05:56PM
19 **Q And so as of 1999, you had not taken 12:05:59PM**
20 **the sergeant's test?**
21 A I don't recall. I may have tried to 12:06:07PM
22 have taken the test at one time.
23 **Q At one time prior to '99? 12:06:11PM**
24 A It's possible. I don't know. 12:06:13PM
25 **Q How many times have you taken the 12:06:14PM**

31 (Pages 121 to 124)

Page 125

1 **GEORGE HESSE**
2 **sergeant's test?**
3 A I was assigned to take it four times. 12:06:17PM
4 I believe I took it three times. I was a
5 no-show on one other.
6 **Q Did you pass it on any of the three 12:06:30PM**
7 **times you took it?**
8 A No. 12:06:33PM
9 **Q So you failed the sergeant's test 12:06:33PM**
10 **three times?**
11 A Yes. 12:06:36PM
12 **Q When was the first time you took it? 12:06:37PM**
13 A I don't recall. 12:06:38PM
14 **Q You don't recall what year it was? 12:06:39PM**
15 A No. 12:06:41PM
16 **Q When was the second time you took it? 12:06:42PM**
17 A I don't recall. 12:06:43PM
18 **Q Do you recall when the last time you 12:06:44PM**
19 **took it?**
20 A I took it in June of '07. 12:06:46PM
21 **Q Do you recall what your score was? 12:06:52PM**
22 A 65. 12:06:53PM
23 **Q And what was the required score? 12:06:54PM**
24 A 70. 12:06:55PM
25 **Q Do you recall what your scores were 12:06:58PM**

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1 **GEORGE HESSE**
2 **the other two times you took it?**
3 A No, I don't recall. 12:07:02PM
4 **Q Do you need to pass a sergeant's test 12:07:05PM**
5 **to be a sergeant?**
6 MR. NOVIKOFF: Objection. 12:07:10PM
7 MR. CONNOLLY: Objection. 12:07:10PM
8 A I believe so, yes. 12:07:11PM
9 **Q And what's your basis of that belief? 12:07:12PM**
10 A It's a promotional exam to sergeant. 12:07:14PM
11 **Q And then you write in your memo 12:07:19PM**
12 **here -- well, strike that, before the memo.**
13 **When were you a no-show to the test? 12:07:26PM**
14 A I don't recall. 12:07:29PM
15 **Q Do you recall what year it was? 12:07:31PM**
16 A Nope. 12:07:32PM
17 **Q Why didn't you show up? 12:07:34PM**
18 A I don't recall. 12:07:40PM
19 **Q Do you have to provide a reason why 12:07:44PM**
20 **you don't show up to the county?**
21 A No. 12:07:47PM
22 **Q You don't recall being out the night 12:07:53PM**
23 **before drinking that you didn't show up?**
24 MR. NOVIKOFF: Again, I didn't 12:07:57PM
25 understand the question. You kind of

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1 **GEORGE HESSE**
2 mumbled and tailed off.
3 BY MR. GOODSTADT: 12:08:02PM
4 **Q I said, you don't recall being out 12:08:02PM**
5 **drinking the night before that you were a**
6 **no-show?**
7 MR. NOVIKOFF: Objection to form. 12:08:08PM
8 MR. CONNOLLY: Objection. 12:08:09PM
9 A No. 12:08:10PM
10 **Q Did you ever report to anybody at the 12:08:10PM**
11 **beach the fact that you had failed the**
12 **sergeant's test each time?**
13 A No. 12:08:16PM
14 **Q How were you alerted to the fact of 12:08:22PM**
15 **your score? Was it posted somewhere? Did you**
16 **get a letter or something?**
17 MR. NOVIKOFF: Objection. 12:08:28PM
18 A I received a letter. 12:08:28PM
19 **Q Each time? 12:08:32PM**
20 A Yes. 12:08:33PM
21 **Q Did you keep copies of those letters? 12:08:46PM**
22 A No. 12:08:48PM
23 **Q Did you throw them out? 12:08:48PM**
24 A Yeah. 12:08:49PM
25 **Q As a police officer, as a full-time 12:08:55PM**

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1 **GEORGE HESSE**
2 **police officer, are there any restrictions on**
3 **supervisory powers that you're entitled to have?**
4 MR. NOVIKOFF: Objection to form. 12:09:05PM
5 A Repeat the question. 12:09:15PM
6 **Q Yeah. 12:09:16PM**
7 **As a full-time police officer, as 12:09:16PM**
8 **opposed to any of the promotional roles,**
9 **sergeant, lieutenant, chief, is there any**
10 **restriction on the supervisory power that you're**
11 **entitled to have?**
12 MR. CALLAHAN: Objection to form. 12:09:29PM
13 MR. CONNOLLY: Yeah, same objection. 12:09:30PM
14 MR. NOVIKOFF: Objection. 12:09:32PM
15 A No. 12:09:34PM
16 **Q So you're not aware of any 12:09:36PM**
17 **restrictions on powers that you can have in a**
18 **supervisor role?**
19 MR. NOVIKOFF: Note my objection. 12:09:42PM
20 A No. 12:09:43PM
21 **Q And you see in the memo, if you look 12:09:47PM**
22 **down on the second line --**
23 A Uh-huh. 12:09:53PM
24 **Q -- the last word says -- that sentence 12:09:53PM**
25 **says, "The undersigned officer feels since I**

32 (Pages 125 to 128)

Page 129

1 **GEORGE HESSE**
2 already assumed the role of a supervisor, that
3 this appointment will help the police department
4 as a whole," et cetera.
5 **Do you see that line?** 12:10:05PM
6 A Yes, I do. 12:10:06PM
7 **Q What were you referring to when you** 12:10:07PM
8 **said "since I already assumed the role of a**
9 **supervisor"?**
10 A I was a full-time police officer, I 12:10:13PM
11 was a senior officer, according to being
12 full-time, and Chief Paradiso already had
13 established that I was in charge of the shifts.
14 **Q In charge of which shifts?** 12:10:25PM
15 A The shifts that I was on, working. 12:10:27PM
16 **Q Did you have a set assigned shift in** 12:10:30PM
17 **or around '99?**
18 A I pretty much worked the standard 12:10:35PM
19 schedule, yes.
20 **Q What standard schedule? What's the** 12:10:38PM
21 **hours of that shift?**
22 A For a long time, I worked Fridays and 12:10:42PM
23 Saturdays from 9 at night until 5 in the
24 morning, and then on Sundays I worked a 4 to 12,
25 and then on Mondays and Tuesdays I worked from

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1 **GEORGE HESSE**
2 8:00 a.m. till 4 p.m.
3 **Q Were there any other full-time** 12:10:57PM
4 **officers in '99 other than for you and**
5 **Paradiso --**
6 A No. 12:11:02PM
7 **Q -- at Ocean Beach?** 12:11:02PM
8 A No. 12:11:04PM
9 **Q And what were Paradiso's hours?** 12:11:06PM
10 A He pretty much worked straight day 12:11:09PM
11 tours. He worked, I believe, from Wednesday
12 till Sunday, 8 till 4.
13 **Q Did that ever change, those regular** 12:11:24PM
14 **tours for Paradiso?**
15 A At some point, yes. 12:11:29PM
16 **Q When did it change?** 12:11:30PM
17 **And I don't mean once he went on leave** 12:11:34PM
18 **and he didn't have any more tours. I'm talking**
19 **about until he went on leave.**
20 A I'm not sure of the date. It might 12:11:41PM
21 have been 2001, 2002.
22 **Q And what did his tours change to?** 12:11:45PM
23 A He -- he was told to work the night 12:11:49PM
24 tours on Fridays and Saturdays and holiday
25 Sundays.

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1 **GEORGE HESSE**
2 **Q Who told him that?** 12:12:04PM
3 A The mayor. Mayor Rogers, to be exact. 12:12:05PM
4 **Q Do you know why she told him that?** 12:12:09PM
5 A Yes. 12:12:11PM
6 **Q And why did she tell him that?** 12:12:11PM
7 A It was a form of disciplinary action 12:12:15PM
8 against Ed Paradiso.
9 **Q And what was he being disciplined for?** 12:12:19PM
10 A I believe it was for double-dipping. 12:12:23PM
11 **Q And how did you learn that that was a** 12:12:29PM
12 **form of disciplinary action against Paradiso?**
13 A Because I knew a complaint was filed 12:12:33PM
14 against Paradiso by somebody in the village, and
15 I believe it was very slightly investigated and
16 he was switched to the night tours.
17 **Q Who filed a complaint?** 12:12:50PM
18 A I believe it was a Dale Wyckoff. 12:12:52PM
19 **Q Wyckoff?** 12:12:58PM
20 A W-Y-C-K-O-F-F. 12:13:01PM
21 **Q Is that a male or a female, Dale** 12:13:06PM
22 **Wyckoff?**
23 A Female. 12:13:09PM
24 **Q Any relation to Doug Wyckoff?** 12:13:10PM
25 A Yes. 12:13:13PM

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1 **GEORGE HESSE**
2 **Q What's the relationship?** 12:13:13PM
3 A Well, there's Doug senior, who is her 12:13:14PM
4 ex-husband, and her son.
5 **Q Any relationship to a Marissa Wyckoff?** 12:13:22PM
6 A That would be her daughter. 12:13:24PM
7 **Q Marissa Wyckoff worked for you at some** 12:13:25PM
8 **point --**
9 A Yes. 12:13:29PM
10 **Q -- in the police department?** 12:13:29PM
11 **There was a Doug Wyckoff at the** 12:13:39PM
12 **Halloween incident, correct?**
13 A Yes. 12:13:43PM
14 **Q Was that senior or is that the son?** 12:13:43PM
15 A Senior. 12:13:46PM
16 **Q So -- and is Doug Wyckoff the father** 12:13:52PM
17 **of Marissa Wyckoff?**
18 A Doug senior, yes. 12:13:59PM
19 **Q How did you learn of the complaint** 12:14:03PM
20 **filed against Paradiso?**
21 A Dale Wyckoff told me. 12:14:10PM
22 **Q Did you ever see a copy of the** 12:14:12PM
23 **complaint?**
24 A No. 12:14:15PM
25 **Q And who told that you he was being --** 12:14:15PM

33 (Pages 129 to 132)

Page 133

1 **GEORGE HESSE**
2 **that Paradiso was being disciplined for the**
3 **double-dipping allegation?**
4 A I don't recall. 12:14:22PM
5 **Q Did you speak to Mayor Rogers about** 12:14:23PM
6 **it?**
7 A I don't recall. 12:14:26PM
8 **Q And who performed the slight** 12:14:28PM
9 **investigation -- I think you called it a slight**
10 **investigation. Who performed the slight**
11 **investigation?**
12 A It was -- I believe it was Peter Bee 12:14:36PM
13 from Bee, Ready & Fishbein.
14 **Q And how do you know that Peter Bee** 12:14:45PM
15 **performed this investigation?**
16 A That's what I was told. 12:14:50PM
17 **Q By who?** 12:14:51PM
18 A I don't recall. 12:14:52PM
19 **Q Did Mayor Rogers tell you that?** 12:14:52PM
20 A I don't recall. 12:14:55PM
21 **Q Do you know what the results of the** 12:14:55PM
22 **investigation were?**
23 A I believe it was confirmed that he was 12:14:57PM
24 double-dipping.
25 **Q Do you know what led to that** 12:15:05PM

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1 **GEORGE HESSE**
2 **conclusion?**
3 A I believe it was his time sheets in 12:15:08PM
4 Ocean Beach and his time sheets in East Islip
5 School District.
6 **Q And so he was put onto your tours or** 12:15:20PM
7 **at least the Friday, Saturday tours that you**
8 **testified to before?**
9 A Yes. 12:15:25PM
10 **Q And you were put on different tours?** 12:15:26PM
11 A Yes. 12:15:29PM
12 **Q What tours were you put on when that** 12:15:31PM
13 **happened?**
14 A I was put on the day tour, which was 12:15:33PM
15 an 8 a.m. till 4 p.m.
16 **Q Did you ever discuss this change in** 12:15:40PM
17 **shift with Paradiso?**
18 A Yes. 12:15:47PM
19 **Q When?** 12:15:48PM
20 A I'm sure right after it happened, but 12:15:51PM
21 I don't recall the date.
22 **Q Did you discuss the reasons for the** 12:15:54PM
23 **change in shift with Paradiso?**
24 A You know, I don't recall. 12:16:00PM
25 **Q Did you ever discuss with Paradiso the** 12:16:02PM

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1 **GEORGE HESSE**
2 **alleged time overlap or double-dipping I think**
3 **you called it?**
4 A I don't recall. 12:16:08PM
5 **Q You don't recall one way or the other?** 12:16:09PM
6 A No. 12:16:11PM
7 **Q Again, just I know I asked the** 12:16:14PM
8 **question. I just don't remember the question.**
9 **Who told you that the reason why the** 12:16:18PM
10 **tours were being shifted was a form of**
11 **discipline?**
12 A I don't recall. 12:16:23PM
13 **Q Do you have anything that would** 12:16:25PM
14 **refresh your recollection?**
15 A Not that I'm aware of. 12:16:27PM
16 **Q Did you ever discuss with Paradiso** 12:16:28PM
17 **that he was being disciplined?**
18 A I don't recall. 12:16:35PM
19 **Q Did you ever discuss with any other** 12:16:35PM
20 **current or former Ocean Beach police officers**
21 **that that shift in the tours was a form of**
22 **discipline for Paradiso?**
23 MR. NOVIKOFF: Objection to form. 12:16:45PM
24 A I don't recall. 12:16:48PM
25 **Q Do you know if anything was put in his** 12:16:50PM

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1 **GEORGE HESSE**
2 **personnel file reflecting his being disciplined?**
3 A I never -- I have never seen anything. 12:16:55PM
4 I don't know.
5 **Q Who made the decision to discipline** 12:16:58PM
6 **him in this way?**
7 A I believe it was the mayor, but 12:17:02PM
8 that's -- I'm just guessing.
9 **Q What's the basis of that belief?** 12:17:07PM
10 A She was his boss. 12:17:09PM
11 **Q Do you know who Ms. Wyckoff complained** 12:17:15PM
12 **to?**
13 MR. CONNOLLY: You're referring to -- 12:17:23PM
14 MR. GOODSTADT: Dale Wyckoff, yes. 12:17:27PM
15 MR. CONNOLLY: Right. 12:17:28PM
16 A I believe she took her written 12:17:29PM
17 complaint and filed it with the village office
18 or the Board of Trustees. I just don't know.
19 **Q Do you know if the Board of Trustees** 12:17:36PM
20 **ever discussed it?**
21 A I don't know. 12:17:39PM
22 **Q Do you know whether the Board of** 12:17:42PM
23 **Trustees ever voted on the issue of whether or**
24 **not to discipline Paradiso in the way that**
25 **you've testified to?**

34 (Pages 133 to 136)

Page 137

1 **GEORGE HESSE**
2 A I don't know. 12:17:55PM
3 **Q Have you ever been in a Board of 12:17:57PM**
4 **Trustees meeting?**
5 A Yes. 12:18:00PM
6 **Q Are you required to go to Board of 12:18:01PM**
7 **Trustees meetings?**
8 MR. NOVIKOFF: Objection to form. 12:18:05PM
9 A No. 12:18:06PM
10 **Q So you sent this memo to Paradiso, and 12:18:14PM**
11 **the first sentence, it says, "As per our**
12 **conversation."**
13 **Do you see that? 12:18:20PM**
14 A Yes. 12:18:21PM
15 **Q What did you and Paradiso discuss in 12:18:21PM**
16 **that conversation?**
17 A I don't recall. 12:18:26PM
18 **Q Do you recall anything that you 12:18:28PM**
19 **discussed?**
20 A No. 12:18:29PM
21 **Q You don't recall whether you discussed 12:18:31PM**
22 **the actual test, the sergeant's test with**
23 **Paradiso by that time?**
24 A I don't recall. 12:18:36PM
25 **Q Was anything decided with respect to 12:18:38PM**

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1 **GEORGE HESSE**
2 **this request for a provisional appointment in**
3 **'99?**
4 A I don't recall. 12:18:46PM
5 **Q Did you actually make a proposal to 12:18:47PM**
6 **the village for this position?**
7 A I don't recall. 12:18:52PM
8 **Q Do you have anything that would 12:18:54PM**
9 **refresh your recollection?**
10 A There might be. I don't know. 12:18:56PM
11 **Q Anything that you can think of that 12:18:57PM**
12 **would refresh your recollection?**
13 A No. 12:19:01PM
14 **Q Did you communicate this request with 12:19:04PM**
15 **any trustees in 1999?**
16 A I don't recall. 12:19:11PM
17 **Q Anything that would refresh your 12:19:11PM**
18 **recollection?**
19 A I don't know. 12:19:13PM
20 **Q Did you receive an appointment to the 12:19:18PM**
21 **provisional sergeant's position?**
22 MR. CALLAHAN: Objection to form. 12:19:23PM
23 MR. NOVIKOFF: I join in it. 12:19:25PM
24 MR. GOODSTADT: I'll strike that. 12:19:28PM
25

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 12:19:29PM
3 **Q Did you receive a provisional 12:19:30PM**
4 **appointment to sergeant in 1999?**
5 A No. 12:19:34PM
6 **Q Was this request denied? 12:19:34PM**
7 A I believe so. 12:19:37PM
8 **Q Who denied it? 12:19:38PM**
9 A It may have been the chief. 12:19:40PM
10 **Q Do you know why he denied it? 12:19:44PM**
11 A No. 12:19:45PM
12 **Q Did you ever speak to him about him 12:19:45PM**
13 **denying it?**
14 A I don't recall. 12:19:48PM
15 **Q How did you learn that it was denied? 12:19:49PM**
16 A I believe was told. 12:19:51PM
17 **Q By who? 12:19:52PM**
18 A By the chief. 12:19:52PM
19 **Q Did he give you the reason as to why 12:19:53PM**
20 **he was denying it?**
21 A I don't recall. 12:19:57PM
22 **Q You don't recall if he gave you the 12:19:57PM**
23 **reason or you don't recall what the reason was?**
24 A I don't know. I'm thinking there was 12:20:02PM
25 something in writing that he may have given me,

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1 **GEORGE HESSE**
2 but I don't recall.
3 **Q Did you keep a copy of what he gave to 12:20:17PM**
4 **you in writing?**
5 A I don't recall. 12:20:21PM
6 **Q Do you know if it was put in your 12:20:22PM**
7 **personnel file?**
8 A I don't know. 12:20:24PM
9 **Q When was the last time you looked at 12:20:25PM**
10 **your personnel file?**
11 A Last time I looked in my personal 12:20:32PM
12 file? You know, I don't recall.
13 **Q Last time you looked through it, do 12:20:39PM**
14 **you recall seeing anything in writing with**
15 **respect to a denial of your request in 1999?**
16 A No. 12:20:46PM
17 **Q Did you ever make a follow-up request 12:20:48PM**
18 **for that same promotion?**
19 A I may have. 12:20:54PM
20 **Q Do you recall actually doing it? 12:20:55PM**
21 A I don't recall. 12:20:57PM
22 MR. GOODSTADT: I apologize, that 12:21:23PM
23 corner's ripped.
24 (Whereupon, Bates document 3847 was 12:21:27PM
25 marked as Plaintiff's Exhibit 2 for

35 (Pages 137 to 140)

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1 GEORGE HESSE
 2 identification, as of this date.)
 3 MR. CONNOLLY: Andrew, is this a 12:21:49PM
 4 separate exhibit or is it part --
 5 MR. GOODSTADT: It is. This is going 12:21:53PM
 6 to be Hesse 2. It's a separate exhibit.
 7 I've placed in front of Mr. Hesse 12:22:14PM
 8 what's now been marked as Hesse 2. It is a
 9 one-page document that is marked Bates
 10 No. 3847. (Handing.)
 11 BY MR. GOODSTADT: 12:22:25PM
 12 **Q Mr. Hesse, have you ever seen this 12:22:26PM**
 13 **document that's been marked as Hesse 2?**
 14 A Yes. 12:22:30PM
 15 **Q Is that your signature at the bottom 12:22:30PM**
 16 **left corner?**
 17 A Yes. 12:22:33PM
 18 **Q And does this refresh your 12:22:35PM**
 19 **recollection as to whether you made a subsequent**
 20 **request for this provisional appointment**
 21 **promotion?**
 22 A Yes. 12:22:45PM
 23 **Q And this is dated March 25th, 2001, 12:22:45PM**
 24 **correct?**
 25 A Correct. 12:22:49PM

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1 GEORGE HESSE
 2 **Q Do you recall how you submitted this 12:22:49PM**
 3 **to the chief?**
 4 A I may have just laid it on his desk. 12:22:54PM
 5 **Q And in the second paragraph, you 12:23:02PM**
 6 **reference, "The last time we spoke of this, you**
 7 **stated 'look at what they did to Bob Golopi.'"**
 8 **Do you see that? 12:23:10PM**
 9 A Yes. 12:23:11PM
 10 **Q Do you recall the conversation that 12:23:12PM**
 11 **you're referring to, the last time we spoke of**
 12 **that, when that last conversation was?**
 13 A I don't recall. 12:23:19PM
 14 **Q Was that the conversation in '99 that 12:23:19PM**
 15 **you testified to already or is that some**
 16 **subsequent conversation?**
 17 A I don't recall. 12:23:24PM
 18 **Q Do you know what you're referring to 12:23:26PM**
 19 **or what Paradiso was referring to when he said**
 20 **"look at what they did to Bob Golopi"?**
 21 A You know, I don't recall. 12:23:35PM
 22 **Q The next sentence says, "Bob got what 12:23:37PM**
 23 **he wanted and/or deserved."**
 24 **Do you see that? 12:23:41PM**
 25 A Yes. 12:23:42PM

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1 GEORGE HESSE
 2 **Q What were you referring to there? 12:23:43PM**
 3 A I believe he -- well, he moved off the 12:23:46PM
 4 beach and he got a vehicle. And I'm
 5 speculating. But I really -- I really don't
 6 recall.
 7 **Q You don't recall what you're referring 12:23:57PM**
 8 **to there?**
 9 A No. The "deserved" part, no. 12:24:00PM
 10 **Q The next sentence says, "He always 12:24:02PM**
 11 **made deals with the village without first**
 12 **consulting you."**
 13 **Do you see that? 12:24:07PM**
 14 A Yes. 12:24:08PM
 15 **Q What are you referring to there? 12:24:08PM**
 16 A Bob was always scamming, trying to 12:24:10PM
 17 scam over the chief. He wanted to be the chief.
 18 He wanted to be in charge. He was always
 19 playing me and Paradiso and the mayor --
 20 actually, the previous mayor, Natalie Rogers,
 21 against each other. And he was just -- I think
 22 he was just plying for leadership.
 23 **Q What did he do to make you believe 12:24:35PM**
 24 **that he was plying for leadership?**
 25 A He was always badmouthing Ed Paradiso 12:24:41PM

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1 GEORGE HESSE
 2 and always trying to get him into trouble for
 3 things that Ed may have done or not done. I
 4 don't know. But he was always trying to be in
 5 charge of everything.
 6 **Q Was that inappropriate -- 12:24:54PM**
 7 MR. NOVIKOFF: Objection. 12:24:57PM
 8 BY MR. GOODSTADT: 12:24:58PM
 9 **Q -- in your mind? 12:24:59PM**
 10 A Yes. 12:25:00PM
 11 **Q Did he ever go outside the chain of 12:25:01PM**
 12 **command and complain about Paradiso?**
 13 MR. NOVIKOFF: Objection. 12:25:06PM
 14 BY MR. GOODSTADT: 12:25:07PM
 15 **Q Did Golopi ever go outside the chain 12:25:07PM**
 16 **of command to complain about Paradiso?**
 17 MR. NOVIKOFF: Objection. 12:25:13PM
 18 A I don't know. 12:25:14PM
 19 **Q Is going to the village and 12:25:16PM**
 20 **complaining about him without first going to**
 21 **Paradiso, is that going outside the chain of**
 22 **command?**
 23 A Well, if he felt there was an issue 12:25:24PM
 24 with Paradiso, the next step would be the mayor,
 25 who was our police commissioner. So that is not

36 (Pages 141 to 144)

Page 145

1 GEORGE HESSE
 2 going out of the chain of command.
 3 **Q Is that what he did? When you say 12:25:34PM**
 4 **"deals with the village," you're referring to**
 5 **the mayor?**
 6 A Yes. 12:25:43PM
 7 **Q And the chain of the command, should 12:25:45PM**
 8 **he first have gone to Paradiso --**
 9 MR. NOVIKOFF: Objection to form. 12:25:50PM
 10 BY MR. GOODSTADT: 12:25:51PM
 11 **Q -- with a complaint he had about 12:25:52PM**
 12 **Paradiso?**
 13 A Yes. 12:25:54PM
 14 **Q The next paragraph, the second 12:25:56PM**
 15 **sentence says, "All I asked for is the title of**
 16 **sergeant."**
 17 **Do you see that? 12:26:04PM**
 18 A Yes. 12:26:04PM
 19 **Q Is the sergeant, is that a competitive 12:26:04PM**
 20 **position, where there needs to be a canvass**
 21 **letter?**
 22 MR. NOVIKOFF: Objection. 12:26:12PM
 23 MR. CALLAHAN: Objection. 12:26:13PM
 24 MR. CONNOLLY: Objection. 12:26:14PM
 25 A On most jobs, yes. 12:26:14PM

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1 GEORGE HESSE
 2 **Q How about at Ocean Beach? 12:26:16PM**
 3 A Well, if I'm the only one taking the 12:26:18PM
 4 test, it's just a promotion. It's not
 5 comparative.
 6 **Q What do you mean by "on most jobs, 12:26:24PM**
 7 **yes"?**
 8 A Say if it was Suffolk County PD and 12:26:27PM
 9 you got 600 guys taking the sergeant's test and
 10 there are four positions open, it's a
 11 competitive promotion.
 12 **Q So here there wouldn't have been a 12:26:37PM**
 13 **canvass letter for that title, because you're**
 14 **the only person going for it?**
 15 MR. NOVIKOFF: Objection. 12:26:39PM
 16 A You know, I don't know. 12:26:40PM
 17 **Q Then the last sentence of that 12:26:44PM**
 18 **paragraph, "Even Mayor Rogers refers to me as**
 19 **the sergeant when she speaks to me."**
 20 **Do you see that? 12:26:51PM**
 21 A Yes. 12:26:51PM
 22 **Q What did you mean by that? 12:26:51PM**
 23 A She would call me Sergeant Hesse. 12:26:53PM
 24 **Q Really? For how long was she calling 12:26:56PM**
 25 **you Sergeant Hesse?**

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1 GEORGE HESSE
 2 A Probably for as long as she's been the 12:27:00PM
 3 mayor.
 4 **Q Did she ever call you Chief Hesse? 12:27:03PM**
 5 A Yes. 12:27:05PM
 6 **Q When did that start? 12:27:06PM**
 7 A When I was designated the deputy 12:27:07PM
 8 chief.
 9 **Q And then the first sentence of this 12:27:10PM**
 10 **last paragraph says -- well, the next-to-last**
 11 **paragraph, "I understand I did not do well**
 12 **enough to pass the last exam."**
 13 **Do you see that? 12:27:21PM**
 14 A Yes. 12:27:22PM
 15 **Q So does that refresh your recollection 12:27:22PM**
 16 **as to when you took the first test?**
 17 A No. 12:27:27PM
 18 **Q But at least as of '01, you had taken 12:27:30PM**
 19 **one and failed it, correct?**
 20 A Correct. 12:27:34PM
 21 **Q And when you say "the last exam," 12:27:36PM**
 22 **you're referring to the sergeant's exam?**
 23 A Yes. 12:27:41PM
 24 **Q Did you take it again after this 2001, 12:27:47PM**
 25 **do you know, the test?**

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1 GEORGE HESSE
 2 A Yes. 12:27:50PM
 3 **Q Two more times after that? 12:27:52PM**
 4 A No. 12:27:54PM
 5 **Q One more time after '01 you took it? 12:27:55PM**
 6 A Yes. 12:27:57PM
 7 **Q So you had taken it twice before you 12:27:58PM**
 8 **wrote this letter and once after?**
 9 A To the best of my recollection, yes. 12:28:02PM
 10 **Q Okay. So to the best of your 12:28:04PM**
 11 **recollection, you took it in '07. We discussed**
 12 **that.**
 13 **When did you take it prior to '07, 12:28:08PM**
 14 **going in reverse chronological order?**
 15 A I don't recall. 12:28:15PM
 16 **Q You don't recall what year it was? 12:28:15PM**
 17 A No. 12:28:17PM
 18 **Q And you don't recall the first time 12:28:18PM**
 19 **you took it?**
 20 A No. 12:28:22PM
 21 **Q But it's your belief that you had 12:28:23PM**
 22 **taken it twice by '01, though, correct?**
 23 A Yes. 12:28:26PM
 24 **Q Is there a limit on the amount of 12:28:27PM**
 25 **times you can take a test for sergeant?**

37 (Pages 145 to 148)

Page 149

1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. 12:28:31PM
3 A Not that I'm aware of. 12:28:32PM
4 **Q Now, you write in the next-to-last 12:28:43PM**
5 **sentence in that paragraph, "According to Civil**
6 **Service, you can stay in a provisional position**
7 **pending two exams."**
8 **Do you see that? 12:28:51PM**
9 A Yes. 12:28:51PM
10 **Q What's your basis for making that 12:28:51PM**
11 **statement?**
12 A I believe I was told that. 12:28:54PM
13 **Q By who? 12:28:56PM**
14 A I don't recall. 12:28:56PM
15 **Q And what did you mean by that? What's 12:29:00PM**
16 **your understanding of "you can stay in the**
17 **provisional position pending two exams"?**
18 A I believe my understanding was if you 12:29:07PM
19 took the test and failed it, you could remain in
20 that position until you take it again and
21 hopefully pass it.
22 **Q And what happens after the second time 12:29:15PM**
23 **you fail it, your understanding?**
24 A I don't know. I would assume they 12:29:19PM
25 remove you from the provisional appointment.

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1 **GEORGE HESSE**
2 **Q Then you said, "That gives me at least 12:29:26PM**
3 **four to five years to pass the test."**
4 **Do you see that? 12:29:30PM**
5 A Yes. 12:29:31PM
6 **Q How often was the test given, at least 12:29:32PM**
7 **at that time?**
8 A It's given in two-year increments. 12:29:36PM
9 **Q Every two years? 12:29:38PM**
10 A Every two years, yes. 12:29:39PM
11 **Q And then the last sentence says, "I 12:29:43PM**
12 **hope you reconsider your last decision, and I**
13 **thank you for your time in this matter."**
14 **Do you see that? 12:29:57PM**
15 A Yes. 12:29:57PM
16 **Q Did Paradiso ever reconsider his 12:29:57PM**
17 **decision the last time?**
18 A Yes. 12:30:01PM
19 **Q Okay. And what did he do this time in 12:30:02PM**
20 **response to this letter?**
21 A I believe he gave my proposal to the 12:30:09PM
22 village board, and it was approved.
23 **Q Were you at the -- strike that. 12:30:25PM**
24 **Was it approved at a board meeting? 12:30:27PM**
25 A To my understanding, it was approved 12:30:29PM

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1 **GEORGE HESSE**
2 in executive session at a board meeting.
3 **Q You weren't at the executive session? 12:30:36PM**
4 A No. 12:30:38PM
5 **Q So how did you learn that it was 12:30:39PM**
6 **approved at the executive session?**
7 A Paradiso had told me. 12:30:42PM
8 **Q Do you know when that was approved? 12:30:47PM**
9 A The date is -- the year was 2001. To 12:30:49PM
10 tell you the truth, I don't know the exact time
11 frame. It was definitely before the summer of
12 2001.
13 **Q And did that -- was the approval for 12:31:02PM**
14 **the provisional appointment or did they appoint**
15 **you sergeant?**
16 A It might have just been sergeant. I 12:31:09PM
17 don't know what the exact --
18 **Q Did you ever receive any -- a 12:31:14PM**
19 **confirmation of it in a letter saying**
20 **congratulations, you received X position?**
21 A No, I don't recall. 12:31:21PM
22 **Q Did you receive a raise when you got 12:31:22PM**
23 **the promotion?**
24 A I don't recall. 12:31:28PM
25 **Q Did you receive any additional 12:31:29PM**

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1 **GEORGE HESSE**
2 **authority when you got the position?**
3 A I was the sergeant, that -- sergeant. 12:31:35PM
4 **Q Did that -- did that grant you with 12:31:39PM**
5 **any additional authority that you didn't have**
6 **prior to being sergeant?**
7 MR. NOVIKOFF: Objection. Form. 12:31:45PM
8 A No. 12:31:46PM
9 **Q Did you have the authority to hire or 12:31:48PM**
10 **fire officers?**
11 A No. 12:31:51PM
12 **Q Did Paradiso have that authority? 12:31:55PM**
13 A Yes. 12:31:59PM
14 **Q Do you know whether he needed board 12:31:59PM**
15 **approval to hire or fire an officer?**
16 MR. NOVIKOFF: Objection. 12:32:03PM
17 A I don't believe so. 12:32:06PM
18 **Q Do you know whether he needed approval 12:32:09PM**
19 **from Civil Service to hire and fire an officer?**
20 MR. NOVIKOFF: Objection. Form. 12:32:14PM
21 Foundation.
22 A Yes. 12:32:16PM
23 **Q He needed approval from Civil Service? 12:32:18PM**
24 A Yes. 12:32:20PM
25 **Q Do you know whether he needed approval 12:32:25PM**

38 (Pages 149 to 152)

Page 153

1 **GEORGE HESSE**
2 **from anyone else other than for Civil Service**
3 **before he could hire or fire?**
4 A I'm not aware of any. 12:32:33PM
5 **Q What's the basis of your understanding 12:32:36PM**
6 **that he needed approval from Civil Service**
7 **before hiring or firing an officer?**
8 A Well, for the position, any person 12:32:41PM
9 within a municipality who is going to be hired,
10 you have to meet the minimum requirements that
11 Civil Service designates.
12 **Q And how about for terminations, did he 12:32:55PM**
13 **need approval from Civil Service before firing a**
14 **police officer?**
15 MR. NOVIKOFF: Objection. Form. 12:33:05PM
16 MR. CALLAHAN: Objection. 12:33:07PM
17 A I don't believe so. 12:33:07PM
18 **Q Did you actually appear before the 12:33:11PM**
19 **board to make a proposal for this position?**
20 MR. NOVIKOFF: His position? 12:33:16PM
21 BY MR. GOODSTADT: 12:33:17PM
22 **Q For the provisional appointment 12:33:17PM**
23 **position or just a sergeant position whichever**
24 **one you actually were promoted to.**
25 MR. NOVIKOFF: As referred to in 12:33:24PM

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1 **GEORGE HESSE**
2 Hesse 2?
3 MR. GOODSTADT: This is the request. 12:33:27PM
4 He doesn't know exactly what the actual
5 promotion was. It was either sergeant or a
6 provisional appointment as sergeant.
7 BY MR. GOODSTADT: 12:33:35PM
8 **Q Did you actually propose a promotion 12:33:35PM**
9 **to the board?**
10 MR. CONNOLLY: Did he? 12:33:38PM
11 BY MR. GOODSTADT: 12:33:39PM
12 **Q Yeah, did you physically go there and 12:33:39PM**
13 **make a proposal to them?**
14 A No. 12:33:42PM
15 **Q Did you know that Paradiso had 12:33:45PM**
16 **forwarded your request on to the board?**
17 A I don't recall how it was done. 12:33:52PM
18 **Q Do you know whether he supported that 12:33:53PM**
19 **promotion at the time when he forwarded it on to**
20 **the board?**
21 A I don't know what his thoughts were. 12:34:00PM
22 **Q Did you ever see the letter that he 12:34:03PM**
23 **sent or the transmission that he sent with your**
24 **proposal to the board?**
25 A I may have. I don't recall. 12:34:10PM

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1 **GEORGE HESSE**
2 MR. GOODSTADT: Could you mark that as 12:34:16PM
3 Hesse 3.
4 (Whereupon, Bates document 3845-46 was 12:34:18PM
5 marked as Plaintiff's Exhibit 3 for
6 identification, as of this date.)
7 MR. CALLAHAN: How is this being 12:34:47PM
8 marked?
9 MR. GOODSTADT: Hesse 3. 12:34:49PM
10 I've placed in front of Mr. Hesse 12:34:53PM
11 what's been marked as Hesse 3. It is a
12 two-page document bearing Bates Nos. 3845
13 and 3846. (Hanging.)
14 BY MR. GOODSTADT: 12:35:02PM
15 **Q Mr. Hesse, have you ever seen the 12:35:03PM**
16 **exhibit that's been marked as Hesse 3?**
17 A Yes. 12:35:07PM
18 **Q Does this refresh your recollection as 12:35:08PM**
19 **to whether he forwarded on your document with**
20 **the recommendation?**
21 A Yes. 12:35:14PM
22 **Q Did you ever discuss with him that he 12:35:14PM**
23 **was going to recommend you for the position?**
24 MR. NOVIKOFF: Objection. It was a 12:35:22PM
25 little confusing.

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 12:35:24PM
3 **Q At that time, before he sent this on, 12:35:25PM**
4 **did you ever discuss with him that he was going**
5 **to forward your request on with his**
6 **recommendation?**
7 A I don't recall. 12:35:34PM
8 **Q Did you discuss the test with him at 12:35:34PM**
9 **that point in time, the sergeant's test?**
10 A I don't recall. 12:35:38PM
11 **Q And it's your understanding that the 12:35:43PM**
12 **board voted on it and approved it in executive**
13 **session?**
14 MR. NOVIKOFF: Objection. Asked and 12:35:48PM
15 answered.
16 BY MR. GOODSTADT: 12:35:49PM
17 **Q Is that correct? 12:35:49PM**
18 A Yes. 12:35:50PM
19 **Q Did you ever see any minutes that 12:35:51PM**
20 **reflect that?**
21 A No. 12:35:56PM
22 **Q Did you ever speak to any of the 12:35:57PM**
23 **trustees about their approval of that**
24 **appointment?**
25 A Yes. 12:36:03PM

39 (Pages 153 to 156)

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1 GEORGE HESSE
2 **Q Who did you speak with? 12:36:03PM**
3 A Andrew Miller. 12:36:05PM
4 **Q Anyone else? 12:36:06PM**
5 A Not that I recall. 12:36:08PM
6 **Q And what did Mr. Miller and you 12:36:12PM**
7 **discuss?**
8 A I don't recall. 12:36:17PM
9 **Q Do you recall anything that you 12:36:18PM**
10 **discussed with him about the appointment?**
11 A I don't recall. 12:36:23PM
12 **Q Did he tell you that it was 12:36:24PM**
13 **provisional as opposed to just sergeant?**
14 A I don't recall. 12:36:30PM
15 **Q Do you know whether the promotion was 12:36:36PM**
16 **reported to Civil Service?**
17 A No, I don't. 12:36:43PM
18 **Q Do you know if it was reported to the 12:36:45PM**
19 **State of New York?**
20 A No, I don't. 12:36:48PM
21 **Q Did you ever attend any supervisory 12:36:57PM**
22 **schools administered by the Suffolk County**
23 **Police?**
24 MR. NOVIKOFF: Objection to form. 12:37:03PM
25 Foundation.

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1 GEORGE HESSE
2 MR. CALLAHAN: Same objection. 12:37:05PM
3 A No. 12:37:07PM
4 **Q Is that a requirement to become a 12:37:08PM**
5 **sergeant to attend a supervisory school?**
6 MR. NOVIKOFF: Objection. Form. 12:37:14PM
7 MR. CALLAHAN: Same. 12:37:18PM
8 MR. CONNOLLY: Same. 12:37:18PM
9 A I don't know. 12:37:20PM
10 **Q You don't know one way or the other? 12:37:20PM**
11 A No. 12:37:20PM
12 **Q Do you know what I mean when I say 12:37:21PM**
13 **supervisory school administrated by the Suffolk**
14 **County Police?**
15 A Yes. 12:37:27PM
16 **Q What is that, in your understanding. 12:37:28PM**
17 A I just know of a course that Suffolk 12:37:30PM
18 County offers as a supervisor school.
19 **Q And you never took that course? 12:37:38PM**
20 A No. 12:37:40PM
21 **Q And you don't know one way or the 12:37:40PM**
22 **other whether it's required to be a sergeant to**
23 **take that course, correct?**
24 MR. NOVIKOFF: Objection. Form. 12:37:47PM
25 MR. CALLAHAN: Same. 12:37:48PM

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1 GEORGE HESSE
2 A I don't know. 12:37:49PM
3 **Q Did you receive any training from 12:37:50PM**
4 **Suffolk County to be a sergeant?**
5 A No. 12:37:56PM
6 **Q Did you go to any training -- other 12:37:58PM**
7 **than for it being on the job, did you go to any**
8 **formal training to be a sergeant?**
9 A No. 12:38:07PM
10 **Q Did you have a business card at that 12:38:09PM**
11 **time?**
12 A I believe I did. 12:38:12PM
13 **Q Did you change your business card to 12:38:13PM**
14 **reflect sergeant?**
15 A I'm sure I did. 12:38:16PM
16 **Q Did it say provisional in there at 12:38:18PM**
17 **all?**
18 A Not that I'm aware of, no. 12:38:22PM
19 **Q Did you create your own business card 12:38:24PM**
20 **or did somebody -- or did someone at Ocean Beach**
21 **who was responsible for creating the business**
22 **cards?**
23 MR. NOVIKOFF: Objection. Form. 12:38:32PM
24 A I believe I created it. 12:38:33PM
25 **Q And you went out and got somebody to 12:38:35PM**

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1 GEORGE HESSE
2 **print them up?**
3 A No. 12:38:39PM
4 **Q You printed them up yourself? 12:38:40PM**
5 A Yes. 12:38:42PM
6 **Q Did you have a change in your uniform 12:38:45PM**
7 **to reflect the fact that you had been promoted**
8 **to sergeant?**
9 A Yes. 12:38:52PM
10 **Q What did you have, the three chevron 12:38:52PM**
11 **patch or something that reflected your**
12 **promotion?**
13 A Yes. 12:38:57PM
14 **Q Is that what you had, a three chevron 12:38:57PM**
15 **patch?**
16 A Yes. 12:39:00PM
17 **Q And where did you get that patch from? 12:39:01PM**
18 A I believe it was ordered from the 12:39:04PM
19 uniform supply store.
20 **Q And you wore that on your sleeve? 12:39:10PM**
21 A Yes. 12:39:13PM
22 **Q Was there any change to your shield 12:39:16PM**
23 **that reflects that you're a sergeant?**
24 A Yes. 12:39:20PM
25 **Q What was the change on your shield 12:39:20PM**

40 (Pages 157 to 160)

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1 **GEORGE HESSE**
2 **that reflected a sergeant?**
3 A I was issued a sergeant's shield. 12:39:23PM
4 **Q By who? 12:39:25PM**
5 A Ed Paradiso. 12:39:26PM
6 **Q And when were you issued that shield? 12:39:31PM**
7 A I believe it had to be ordered, so I 12:39:37PM
8 don't really recall the exact date.
9 **Q Sometime in or around 2001? 12:39:41PM**
10 A Yes. 12:39:44PM
11 **Q Did you hold yourself out to anybody 12:39:47PM**
12 **outside of the beach as a sergeant?**
13 MR. CALLAHAN: Objection to form. 12:39:54PM
14 MR. NOVIKOFF: Yeah, objection. 12:39:55PM
15 MR. CONNOLLY: Objection. 12:39:56PM
16 A Yes. 12:39:56PM
17 **Q Who did you hold yourself out to be -- 12:39:57PM**
18 **who did you hold yourself out to as a sergeant**
19 **outside of Ocean Beach?**
20 A The world. 12:40:05PM
21 **Q So it wasn't your understanding that 12:40:06PM**
22 **this was some internal title, correct?**
23 MR. NOVIKOFF: Objection. 12:40:11PM
24 MR. CONNOLLY: Objection. 12:40:12PM
25 A I was the sergeant. I was promoted 12:40:14PM

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1 **GEORGE HESSE**
2 internally, yes.
3 **Q So if I were to tell you that there 12:40:18PM**
4 **was some testimony by a village official that**
5 **this was just an internal title, would that be**
6 **news to you?**
7 A No. 12:40:28PM
8 **Q It wouldn't? 12:40:29PM**
9 A No. 12:40:30PM
10 **Q So you've been told in the past that 12:40:30PM**
11 **this is an internal title?**
12 A Recently, yes. 12:40:34PM
13 **Q How recently -- how about at the time? 12:40:35PM**
14 A At the time, no. 12:40:37PM
15 **Q When were you told it was just an 12:40:38PM**
16 **internal title?**
17 A Probably within the last two years 12:40:42PM
18 now.
19 **Q Uh-huh. Who told you that? 12:40:45PM**
20 A Mayor Joe Loeffler. 12:40:47PM
21 **Q When did he tell you that in the last 12:40:48PM**
22 **two years?**
23 A I don't recall. 12:40:51PM
24 **Q Do you recall what year it was? 12:40:51PM**
25 A It was within the last two years. 12:40:53PM

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1 **GEORGE HESSE**
2 **Q And were you sergeant at the time he 12:40:55PM**
3 **told you that or had you received another**
4 **promotion since then?**
5 A I received another promotion since 12:41:01PM
6 then.
7 **Q Did anyone ever tell you that the 12:41:04PM**
8 **sergeant title was just internal?**
9 A No. 12:41:08PM
10 **Q So even Joe Loeffler didn't tell you 12:41:08PM**
11 **the sergeant title was internal?**
12 A Joe Loeffler wasn't a trustee at the 12:41:14PM
13 time.
14 **Q At what time? 12:41:17PM**
15 A At the time when I was given the 12:41:18PM
16 sergeant's.
17 **Q So at the time you held the sergeant 12:41:21PM**
18 **title and held yourself out to the world as a**
19 **sergeant, did anybody tell you that it was just**
20 **an internal title?**
21 A No. 12:41:29PM
22 MR. CALLAHAN: Objection to form. 12:41:31PM
23 MR. NOVIKOFF: I join in. I don't 12:41:33PM
24 like anyone to be alone.
25 MR. CALLAHAN: Thank you. 12:41:43PM

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 12:41:56PM
3 **Q So before, I asked you whether you had 12:41:57PM**
4 **the same title currently, your Civil Service was**
5 **a full-time police officer and you told me it**
6 **was. And then I asked you was it the same title**
7 **as Ed Carter, and you told me it wasn't. But do**
8 **you and Ed Carter hold the same police**
9 **certificate?**
10 MR. NOVIKOFF: Objection. 12:42:19PM
11 MR. CONNOLLY: Objection. 12:42:19PM
12 A Yes. 12:42:20PM
13 **Q Same thing with Mr. Fiorillo, 12:42:21PM**
14 **Mr. Lamm, Mr. Snyder?**
15 MR. NOVIKOFF: Same objection. 12:42:26PM
16 A Yes. 12:42:27PM
17 **Q Mr. Nofi? 12:42:28PM**
18 MR. NOVIKOFF: Same objection. 12:42:30PM
19 A Yes. 12:42:30PM
20 **Q Yes? 12:42:31PM**
21 A Yes. 12:42:32PM
22 **Q Did there come a point in time that 12:42:32PM**
23 **you were promoted from the sergeant title?**
24 A Yes. 12:42:37PM
25 **Q And when did that happen? 12:42:38PM**

41 (Pages 161 to 164)

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1 **GEORGE HESSE**
2 A I believe the date was January 18th, 12:42:41PM
3 2006.
4 **Q And what title did you receive a 12:42:48PM**
5 **promotion to in January of 2006?**
6 A Acting deputy chief. 12:42:58PM
7 **Q And is that something that you applied 12:43:10PM**
8 **for or put in a request for like you had done**
9 **for the sergeant position?**
10 A No. 12:43:16PM
11 **Q Did you actually have to fill out any 12:43:17PM**
12 **work, any paperwork when you got the sergeant**
13 **position to reflect that change?**
14 A Not that I recall. 12:43:25PM
15 **Q Did you have to fill out any 12:43:26PM**
16 **application for that position other than for the**
17 **two letters that we've seen?**
18 A Not that I recall. 12:43:32PM
19 **Q Now, the -- so the deputy -- acting 12:43:35PM**
20 **deputy chief, is that what you said?**
21 A Correct. 12:43:40PM
22 **Q How did you learn that you were up for 12:43:41PM**
23 **that position?**
24 A I was approached by Joe Loeffler, and 12:43:44PM
25 he said she was going to make that suggestion to

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1 **GEORGE HESSE**
2 the board.
3 **Q And is that a position that a canvass 12:43:54PM**
4 **letter would ordinarily go out to?**
5 MR. CALLAHAN: Objection to form. 12:43:59PM
6 A I don't know. 12:44:00PM
7 **Q You don't know one way or the other? 12:44:01PM**
8 A No. 12:44:04PM
9 **Q When did Mr. Loeffler approach you to 12:44:04PM**
10 **tell you that he was going to make that proposal**
11 **to the board?**
12 A I don't recall any specific date. 12:44:09PM
13 **Q What was his title at the time? 12:44:10PM**
14 A Trustee. 12:44:12PM
15 **Q Do you recall what year it was that he 12:44:15PM**
16 **told you this?**
17 A It had to be in 2005 at some point. 12:44:17PM
18 **Q Do you recall what month it was? 12:44:23PM**
19 A No, I don't. 12:44:25PM
20 **Q What did he tell you? 12:44:27PM**
21 A Well, at that point, Paradiso had 12:44:34PM
22 taken his leave, and he felt that the police
23 department still needs to move forward and
24 needed a certain sort of leadership and that he
25 was going to make the recommendation to the

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1 **GEORGE HESSE**
2 board for my new position.
3 **Q Do you know whether -- do you know 12:44:52PM**
4 **when the recommendation was made to the board?**
5 A I don't know. 12:44:57PM
6 **Q Were you at the meeting at which it 12:44:58PM**
7 **was made?**
8 A No. 12:45:00PM
9 **Q Do you know whether it was reported to 12:45:03PM**
10 **the public prior to the board proposal?**
11 A Not that I'm aware of. 12:45:07PM
12 **Q And how are you aware that he actually 12:45:12PM**
13 **was going to move forward and make that**
14 **proposal?**
15 A He told me. 12:45:20PM
16 **Q And that was in '05? 12:45:22PM**
17 A Yes. 12:45:23PM
18 **Q Did he tell you when he was going to 12:45:24PM**
19 **make that proposal?**
20 A Not exactly, no. 12:45:27PM
21 **Q Did you take on the role prior to the 12:45:28PM**
22 **proposal being made, like, for example, he told**
23 **you in '05 he was going to make the proposal.**
24 **According to you it was done in '06 in January.**
25 **During the period from when he told you until**

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1 **GEORGE HESSE**
2 **the time that the proposal was made, had you**
3 **taken on the role of deputy chief of police**
4 **or -- deputy chief of police or acting deputy**
5 **chief of police.**
6 MR. NOVIKOFF: Objection to form. 12:45:56PM
7 MR. CONNOLLY: Objection to form. 12:45:57PM
8 MR. CALLAHAN: Objection. 12:45:59PM
9 A I don't know if I assumed the role. I 12:46:00PM
10 did the job.
11 **Q And do you know whether the proposal 12:46:05PM**
12 **was actually made to the board?**
13 A No. 12:46:10PM
14 **Q Did you ever see any documentation 12:46:11PM**
15 **that demonstrates that it was?**
16 A After I was approved, I did. 12:46:16PM
17 **Q And how did you learn that it was made 12:46:18PM**
18 **and approved?**
19 A Well, I was at the board meeting when 12:46:21PM
20 they made the appointment.
21 **Q So you were there when they proposed 12:46:25PM**
22 **it and voted on it?**
23 A Yes. It was in a public forum. Yes. 12:46:28PM
24 **Q Did you have to present anything to 12:46:32PM**
25 **the board in that meeting?**

42 (Pages 165 to 168)

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1 **GEORGE HESSE**
2 A No. 12:46:35PM
3 **Q Did anyone speak on your behalf when 12:46:37PM**
4 **the proposal was made?**
5 A I believe Trustee Loeffler did. 12:46:41PM
6 **Q Do you recall what he said? 12:46:45PM**
7 A Not exactly, no. 12:46:47PM
8 **Q Who was the mayor at the time? 12:46:49PM**
9 A Natalie Rogers. 12:46:51PM
10 **Q Did you ever speak to Chief Paradiso 12:46:55PM**
11 **about the proposal that you'd be made deputy**
12 **chief or acting deputy chief of police?**
13 A No. 12:47:06PM
14 **Q Did you ever learn of a conversation 12:47:08PM**
15 **that Paradiso had with Rogers about that**
16 **appointment?**
17 A I vaguely remember something, yes. 12:47:18PM
18 **Q What do you remember? 12:47:20PM**
19 A That he felt that I wasn't right for 12:47:21PM
20 the job.
21 **Q Do you know why he felt that? 12:47:24PM**
22 A I'm sure he was threatened. 12:47:26PM
23 **Q Did you ever discuss with him -- 12:47:28PM**
24 A No. 12:47:30PM
25 **Q -- his position on that? 12:47:30PM**

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1 **GEORGE HESSE**
2 A No. 12:47:31PM
3 MR. NOVIKOFF: I'm sorry, what was his 12:47:32PM
4 answer before that last question?
5 MR. GOODSTADT: He thought he was 12:47:36PM
6 threatened.
7 MR. NOVIKOFF: Paradiso thought he was 12:47:38PM
8 threatened?
9 MR. GOODSTADT: Yes. 12:47:40PM
10 A Not physically, but his job. 12:47:42PM
11 **Q That's just your speculation, right? 12:47:43PM**
12 **You never spoke to him about that?**
13 A No. 12:47:47PM
14 **Q Did you ever speak to Rogers about 12:47:49PM**
15 **Paradiso's position with respect to your**
16 **promotion?**
17 A I don't recall. 12:47:56PM
18 **Q How did you learn of that conversation 12:47:57PM**
19 **that Paradiso had with Rogers?**
20 A I don't recall. 12:48:02PM
21 **Q Who was the police commissioner at the 12:48:04PM**
22 **time?**
23 MR. NOVIKOFF: Objection. 12:48:06PM
24 A Natalie Rogers. 12:48:08PM
25 **Q Was there a police liaison at the 12:48:14PM**

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1 **GEORGE HESSE**
2 **time?**
3 MR. NOVIKOFF: Objection to the form 12:48:20PM
4 of the question.
5 A Not that I'm aware of. 12:48:23PM
6 **Q Just you had it referred to Loeffler, 12:48:25PM**
7 **but you don't know if it was official or not?**
8 A That's correct. 12:48:29PM
9 **Q Who is the police commissioner today? 12:48:30PM**
10 A Joseph Loeffler. 12:48:32PM
11 **Q Was Paradiso still working at this 12:48:38PM**
12 **time?**
13 MR. NOVIKOFF: Objection. Form. 12:48:42PM
14 MR. CONNOLLY: Presumably you're 12:48:46PM
15 talking about the beach.
16 MR. GOODSTADT: At the beach. At the 12:48:49PM
17 beach.
18 A No. 12:48:50PM
19 **Q So he was already out on his leave or 12:48:50PM**
20 **whatever he was out on?**
21 MR. NOVIKOFF: Objection. 12:48:54PM
22 A Yes. 12:48:55PM
23 **Q Yes? 12:48:55PM**
24 A Yes. 12:48:56PM
25 **Q Did you ever see the resolution that 12:48:56PM**

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1 **GEORGE HESSE**
2 **approved your appointment?**
3 A I may have. 12:49:02PM
4 **Q Was the appointment at the meeting in 12:49:06PM**
5 **January of '06, was that made to acting deputy**
6 **chief of police or deputy chief of police?**
7 A I think there's some terminology 12:49:15PM
8 problems there, but I've seen it as acting and
9 I've seen it as deputy chief.
10 **Q Well, which one was it? 12:49:22PM**
11 A To tell you the truth, I don't even 12:49:24PM
12 know.
13 **Q Is there a Civil Service test that's 12:49:26PM**
14 **required to get that promotion --**
15 MR. NOVIKOFF: Objection. 12:49:29PM
16 BY MR. GOODSTADT: 12:49:31PM
17 **Q -- to deputy chief of police? 12:49:31PM**
18 MR. CALLAHAN: Same. 12:49:33PM
19 A No. 12:49:34PM
20 **Q Is there a Civil Service test to be 12:49:34PM**
21 **chief of police?**
22 MR. NOVIKOFF: Objection. 12:49:40PM
23 MR. CALLAHAN: Same. 12:49:41PM
24 A There is one. 12:49:41PM
25 **Q Do you know whether you can be 12:49:42PM**

43 (Pages 169 to 172)

Page 173

1 **GEORGE HESSE**
2 **promoted to chief or deputy chief without first**
3 **passing the sergeant's test --**
4 MR. NOVIKOFF: Objection. 12:49:49PM
5 BY MR. GOODSTADT: 12:49:50PM
6 **Q -- on your Civil Service level? 12:49:50PM**
7 MR. NOVIKOFF: Objection. 12:49:52PM
8 A I don't know. 12:49:52PM
9 **Q You don't know one way or the other? 12:49:53PM**
10 A I don't know. 12:49:56PM
11 MR. GOODSTADT: Mark this. 12:49:58PM
12 (Whereupon, Bates document 28 was 12:49:58PM
13 marked as Plaintiff's Exhibit 4 for
14 identification, as of this date.)
15 MR. GOODSTADT: I've placed in front 12:50:26PM
16 of Mr. Hesse what's now been marked as
17 Hesse 4. It's a one-page exhibit bearing
18 Bates No. 28. (Handing.)
19 BY MR. GOODSTADT: 12:50:34PM
20 **Q Mr. Hesse, have you ever seen the 12:50:34PM**
21 **document that's been marked as Hesse 4?**
22 A Yes. 12:50:38PM
23 **Q And this is the resolution that 12:50:38PM**
24 **demonstrates that you have been designated as**
25 **deputy chief of police.**

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1 **GEORGE HESSE**
2 **Do you see that? 12:50:46PM**
3 A Yes. 12:50:47PM
4 **Q So does this refresh your recollection 12:50:51PM**
5 **as to whether it was a designation to acting**
6 **versus deputy, just plain deputy chief of**
7 **police.**
8 MR. NOVIKOFF: Objection to form. 12:50:59PM
9 A It says deputy. 12:51:00PM
10 **Q Is that a Civil Service title, deputy 12:51:01PM**
11 **chief of police?**
12 MR. NOVIKOFF: Objection. 12:51:05PM
13 A Yes. 12:51:05PM
14 **Q Do you know whether this promotion was 12:51:10PM**
15 **reported to Civil Service?**
16 A Not that I'm aware of. 12:51:13PM
17 **Q Did you receive a pay increase with 12:51:15PM**
18 **this promotion?**
19 A I don't think so. 12:51:21PM
20 **Q Do you know whether this promotion was 12:51:23PM**
21 **approved by Civil Service?**
22 MR. CALLAHAN: Objection to form. 12:51:28PM
23 A I am unaware. 12:51:29PM
24 **Q Is deputy chief of police, is that an 12:51:31PM**
25 **open competitive position?**

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection. 12:51:35PM
3 A It may be. I don't know. 12:51:36PM
4 **Q Do you know whether a canvass letter 12:51:38PM**
5 **was distributed to anybody?**
6 MR. NOVIKOFF: Objection. 12:51:42PM
7 A I am unaware. 12:51:42PM
8 **Q And if you see on Hesse 4, do you see 12:51:45PM**
9 **where the arrow is that says "designation of**
10 **George Hesse"?**
11 A Uh-huh. 12:51:54PM
12 **Q Do you see that? 12:51:53PM**
13 A Yes. 12:51:55PM
14 **Q On the second line, it says, "Trustee 12:51:55PM**
15 **Loeffler made motion to designate George Hesse**
16 **as deputy chief of police with all power and**
17 **authority involved with that position."**
18 **Do you see that? 12:52:05PM**
19 A Yes. 12:52:06PM
20 **Q Do you know what power and authority 12:52:06PM**
21 **is involved with that position?**
22 MR. NOVIKOFF: Note my objection. 12:52:13PM
23 MR. CALLAHAN: Objection to form also. 12:52:14PM
24 MR. NOVIKOFF: Yeah. 12:52:17PM
25 A I would assume that I am in charge of 12:52:17PM

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1 **GEORGE HESSE**
2 all aspects of the police department.
3 **Q And did your role change at all when 12:52:23PM**
4 **you received that promotion?**
5 A Slightly. 12:52:28PM
6 MR. NOVIKOFF: Objection. 12:52:29PM
7 BY MR. GOODSTADT: 12:52:29PM
8 **Q What do you mean by slightly? 12:52:29PM**
9 A I now had the powers to hire and 12:52:31PM
10 remove.
11 **Q Okay. Who did you report to in this 12:52:38PM**
12 **position?**
13 A The mayor and the mayor alone. 12:52:40PM
14 **Q Okay. So you got more power in terms 12:52:42PM**
15 **of the ability to hire and fire. Your reporting**
16 **relationship changed too, correct? You were**
17 **reporting to Paradiso, and now you're reporting**
18 **only to the mayor?**
19 A Yes. 12:52:55PM
20 **Q Any other changes to your duties or 12:52:55PM**
21 **responsibilities with this promotion?**
22 A No. 12:53:03PM
23 **Q This position is senior to the 12:53:05PM**
24 **position of sergeant, correct?**
25 A Yes. 12:53:08PM

44 (Pages 173 to 176)

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1 GEORGE HESSE
2 **Q Did any sergeant replace you? 12:53:08PM**
3 A No. 12:53:14PM
4 **Q To this day, has anybody replaced you 12:53:14PM**
5 **in the sergeant role? Is there a sergeant in**
6 **the Ocean Beach Police Department?**
7 A No. 12:53:20PM
8 **Q Has there been one since 12:53:21PM**
9 **January 28th of 2006?**
10 A No. 12:53:24PM
11 **Q Now that you have -- since January 20, 12:53:29PM**
12 **2006, you had the authority to hire and fire,**
13 **did you need board approval to do that?**
14 A No. 12:53:37PM
15 **Q Did you need approval of anyone to 12:53:41PM**
16 **hire and fire?**
17 MR. CONNOLLY: Objection. 12:53:43PM
18 MR. NOVIKOFF: Yeah, I'm going to 12:53:44PM
19 object to that one.
20 A No. 12:53:47PM
21 **Q When you became chief or deputy chief, 12:53:53PM**
22 **did your uniform change at all?**
23 A Yes. 12:54:01PM
24 **Q How did your uniform change? 12:54:01PM**
25 A I removed the sergeant stripes and 12:54:03PM

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1 GEORGE HESSE
2 instead of a sergeant shield, I wore a chief
3 shield and stars on my collar.
4 **Q And when did you change your uniform? 12:54:18PM**
5 A Right after this designation. 12:54:24PM
6 **Q Do you know who an Officer Betenhauser 12:54:33PM**
7 **is?**
8 A Yes, I do. 12:54:36PM
9 **Q And what is Officer Betenhauser's 12:54:38PM**
10 **title?**
11 A Part-time seasonal police officer. 12:54:42PM
12 **Q Has that always been his title at 12:54:45PM**
13 **Ocean Beach?**
14 A No. 12:54:47PM
15 **Q What other titles has Officer 12:54:47PM**
16 **Betenhauser held within Ocean Beach?**
17 A Betenhauser? 12:54:52PM
18 **Q Betenhauser, yes. 12:54:55PM**
19 A Actually, yes. Thanks for reminding 12:54:57PM
20 me. He was promoted to a sergeant for six
21 months.
22 **Q Who promoted him? 12:55:05PM**
23 A I believe it was at a trustee's 12:55:07PM
24 meeting, they took a vote on it, but it came
25 from Loeffler, Joe Loeffler.

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1 GEORGE HESSE
2 **Q Did he pass the sergeant's test, 12:55:17PM**
3 **Betenhauser?**
4 MR. NOVIKOFF: Objection. 12:55:22PM
5 A Yes. 12:55:22PM
6 **Q How come he only had the position for 12:55:23PM**
7 **six months?**
8 A Because that's all that, I think, 12:55:26PM
9 Civil Service would allow in a part-time
10 seasonal position.
11 **Q What's the basis of your understanding 12:55:31PM**
12 **of that?**
13 A That's what I was told. 12:55:34PM
14 **Q Did there come a point in time when 12:55:38PM**
15 **Civil Service questioned your role in a**
16 **supervisory capacity as being outside the title**
17 **of police officer?**
18 MR. CALLAHAN: Objection to form. 12:55:48PM
19 MR. NOVIKOFF: Yeah, I join in. 12:55:50PM
20 A I'm aware of some discrepancies, but I 12:55:54PM
21 don't know exactly what it was.
22 **Q When did you become aware of that? 12:56:01PM**
23 A I believe a lot of it happened after 12:56:04PM
24 March 27th of 2007.
25 **Q How did you become aware of it? 12:56:11PM**

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1 GEORGE HESSE
2 A I believe I was sitting in an office 12:56:14PM
3 with Mayor Loeffler and Maryann Minerva in her
4 office, and I believe that Mayor Loeffler had
5 told me about some problems with the titles and
6 title issuing.
7 **Q What did he tell you? 12:56:29PM**
8 A I really -- I really don't recall 12:56:36PM
9 other than the fact that there was -- there's a
10 problem with the titles, my supervisory role.
11 **Q What titles are you referring to? 12:56:45PM**
12 A Deputy chief. 12:56:47PM
13 **Q What problem did he tell you there 12:56:49PM**
14 **was?**
15 A That -- technically, that the village 12:56:52PM
16 couldn't do what they did.
17 **Q Okay. Just deputy chief or that 12:57:00PM**
18 **included sergeant promotion as well?**
19 MR. NOVIKOFF: Objection. 12:57:04PM
20 A That included that also. 12:57:05PM
21 **Q And he told you that? 12:57:06PM**
22 A I don't recall. 12:57:09PM
23 **Q Was anything done to rectify the 12:57:10PM**
24 **problem, the title problem?**
25 MR. NOVIKOFF: Objection. 12:57:14PM

45 (Pages 177 to 180)

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1 GEORGE HESSE
2 A No. 12:57:15PM
3 **Q Did he ever show you -- strike that. 12:57:21PM**
4 **Who had questioned or who had raised 12:57:24PM**
5 **the problem with the village with respect to the**
6 **titles?**
7 MR. NOVIKOFF: Who was Mr. Hesse 12:57:31PM
8 advised of as to raising the issue?
9 MR. GOODSTADT: Yes. 12:57:37PM
10 BY MR. GOODSTADT: 12:57:37PM
11 **Q Do you know how the village learned of 12:57:37PM**
12 **this alleged problem?**
13 A I believe Civil Service. 12:57:40PM
14 **Q And what's the basis of that belief? 12:57:42PM**
15 A I believe that the mayor and maybe 12:57:44PM
16 even Ken Gray himself went to a meeting with the
17 county attorney and Civil Service, members of
18 Civil Service.
19 **Q How did you learn of that meeting? 12:57:58PM**
20 A I was told. 12:57:59PM
21 **Q By who? 12:58:00PM**
22 A Joe Loeffler. 12:58:01PM
23 **Q What were you told was discussed at 12:58:02PM**
24 **that meeting?**
25 A I don't recall, other than maybe my 12:58:05PM

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1 GEORGE HESSE
2 title issue.
3 **Q Do you know when the meeting was held? 12:58:11PM**
4 A I don't recall. 12:58:13PM
5 **Q What was discussed with respect to 12:58:15PM**
6 **your title issue? What did they tell you was**
7 **discussed?**
8 MR. CALLAHAN: Objection to form. 12:58:21PM
9 A Yeah, I don't -- that there's just a 12:58:23PM
10 problem with the supervisory role that they had
11 put me in.
12 **Q Did they tell you it was out of title 12:58:35PM**
13 **to have the supervisory role?**
14 MR. CALLAHAN: Objection. 12:58:42PM
15 MR. NOVIKOFF: Yeah, I just want to 12:58:44PM
16 caution you, Mr. Hesse, that any
17 conversations that you had with Mr. Gray in
18 his capacity as a village lawyer, I'm taking
19 the position as being confidential and
20 attorney-client privileged.
21 You can question him as to whether or 12:59:00PM
22 not it's appropriate, but --
23 MR. GOODSTADT: I'm not sure -- it may 12:59:06PM
24 be privileged. I'm not sure about
25 confidential.

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1 GEORGE HESSE
2 MR. NOVIKOFF: Well, then, fine, 12:59:12PM
3 privilege.
4 MR. GOODSTADT: There may be a certain 12:59:14PM
5 attorney-client privilege, which again I'm
6 not sure how appropriate it would be.
7 BY MR. GOODSTADT: 12:59:17PM
8 **Q But just going back to the question -- 12:59:17PM**
9 MR. GOODSTADT: Could you repeat the 12:59:19PM
10 question?
11 (Whereupon, the referred to portion 12:59:21PM
12 was read back by the court reporter: Did
13 they tell you it was out of title to have
14 the supervisory role?)
15 A Yes, that's the correct terminology. 12:59:34PM
16 **Q Who told you that? 12:59:37PM**
17 A I believe Joe Loeffler. 12:59:38PM
18 **Q Did he tell you anything else about 12:59:42PM**
19 **the title problem other than for the fact that**
20 **your supervisory role was out of title?**
21 A That's all I recall. 12:59:52PM
22 **Q Did he show you the letter that came 12:59:53PM**
23 **or any letter that came from Civil Service with**
24 **respect to this issue?**
25 A No. 12:59:59PM

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1 GEORGE HESSE
2 **Q Do you recall -- you mentioned 12:59:59PM**
3 **March 27, 2007 this all came out. Why is that**
4 **date relevant?**
5 A That's the date that I turned myself 1:00:08PM
6 in to the Suffolk County D.A.'s office for my
7 indictment.
8 **Q When did you learn you were indicted? 1:00:13PM**
9 A I believe within the week preceding 1:00:19PM
10 March 27th I had received a phone call from my
11 attorney.
12 **Q Okay. And do you believe that the 1:00:26PM**
13 **issue with respect to the supervisory role being**
14 **out of title was connected with your indictment?**
15 MR. CALLAHAN: Objection to form. 1:00:36PM
16 MR. NOVIKOFF: Objection. Same. 1:00:37PM
17 MR. CONNOLLY: Same. 1:00:38PM
18 A Yes. 1:00:39PM
19 MR. GOODSTADT: Mark that, please. 1:00:41PM
20 (Whereupon, A letter dated January 1:00:42PM
21 2007 was marked as Plaintiff's Exhibit 5 for
22 identification, as of this date.)
23 MR. GOODSTADT: I've placed in front 1:01:22PM
24 of Mr. Hesse what's been marked as Hesse 5.
25 It is a one-page letter from Allison Sanchez

46 (Pages 181 to 184)

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1 GEORGE HESSE
 2 to Joseph Loeffler, Mayor, dated
 3 January 4th, 2007. I don't believe it
 4 contains a Bates number. (Handing.)
 5 BY MR. GOODSTADT: 1:01:42PM
 6 Q Mr. Hesse, have you ever seen the 1:01:43PM
 7 letter marked as Hesse 5?
 8 A No. 1:01:49PM
 9 Q So in January of '07 -- well, strike 1:01:50PM
 10 that.
 11 Do you recall whether this issue 1:01:53PM
 12 reflected in this letter, being that your
 13 supervisory capacity is outside of title, being
 14 raised with you in January of '07?
 15 A I don't recall. 1:02:06PM
 16 Q So seeing the fact that this letter 1:02:07PM
 17 came in January of '07, does that change your
 18 belief that your indictment had something to do
 19 with it?
 20 A Well, according to the date, correct. 1:02:17PM
 21 Q Did you ever speak with -- strike 1:02:19PM
 22 that.
 23 Do you know who Allison Sanchez is? 1:02:22PM
 24 A Yes, I do. 1:02:24PM
 25 Q Who was that? 1:02:25PM

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1 GEORGE HESSE
 2 A She was the, I guess, account manager 1:02:25PM
 3 in Civil Service that handled Ocean Beach.
 4 Q Did you deal with her regularly with 1:02:31PM
 5 respect to Civil Service matters in connection
 6 with Ocean Beach?
 7 MR. NOVIKOFF: Objection to form. 1:02:39PM
 8 MR. CALLAHAN: Same. 1:02:41PM
 9 MR. CONNOLLY: Same. 1:02:41PM
 10 A Yes. 1:02:42PM
 11 Q How frequently did you speak or 1:02:42PM
 12 communicate with her starting in 2005 -- strike
 13 that -- starting in January 2006, when you
 14 received the deputy chief position?
 15 MR. CALLAHAN: Objection to form. 1:02:57PM
 16 A Actually, I was dealing with Allison 1:02:58PM
 17 earlier than 2006.
 18 Q Okay. When did you start dealing with 1:03:03PM
 19 Allison Sanchez?
 20 A I believe I started dealing with her 1:03:06PM
 21 sometime in 2005.
 22 Q With respect to what? 1:03:11PM
 23 A The hiring and also correction of some 1:03:13PM
 24 of the discrepancies with some of the police
 25 officers that were working for us.

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1 GEORGE HESSE
 2 Q Okay. And we'll discuss those 1:03:24PM
 3 discrepancies going forward.
 4 But did you ever discuss this issue in 1:03:28PM
 5 this letter, the supervisory capacity being
 6 outside of title with Allison Sanchez?
 7 A I don't recall. 1:03:36PM
 8 Q Now, as of January 4, 2007, your title 1:03:38PM
 9 within the village or at least the one that you
 10 had been appointed to, was it still deputy chief
 11 or had you been promoted again at some point
 12 after that?
 13 A No. I think it was just always deputy 1:03:53PM
 14 chief.
 15 Q How about today, what's your title? 1:03:57PM
 16 A It's still, I would assume, deputy 1:03:59PM
 17 chief.
 18 Q Have you ever been promoted to chief? 1:04:02PM
 19 A Not officially, no. 1:04:04PM
 20 Q Have you ever held yourself out to be 1:04:05PM
 21 chief of police?
 22 A Yes. 1:04:08PM
 23 Q To the public? 1:04:08PM
 24 A Yes. 1:04:09PM
 25 Q People outside of Ocean Beach? 1:04:10PM

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1 GEORGE HESSE
 2 A Yes. 1:04:12PM
 3 Q To the State of New York, to 1:04:12PM
 4 registries?
 5 A Yes. 1:04:14PM
 6 Q Why would you hold yourself out to the 1:04:19PM
 7 State of New York registries as chief of police
 8 when that's not your title?
 9 MR. CONNOLLY: Objection to the form. 1:04:25PM
 10 You can answer. 1:04:27PM
 11 A The village gave me the designation as 1:04:30PM
 12 deputy chief, therefore I'm a chief.
 13 Q There's no difference between deputy 1:04:36PM
 14 chief and chief of police?
 15 MR. NOVIKOFF: Objection to form. 1:04:41PM
 16 MR. CALLAHAN: Objection to form also. 1:04:43PM
 17 MR. CONNOLLY: Join. 1:04:44PM
 18 A There is a difference. 1:04:45PM
 19 Q So why would you hold yourself out as 1:04:46PM
 20 chief of police if the village designated you as
 21 deputy chief?
 22 A There's nobody to be the deputy to, so 1:04:49PM
 23 therefore I am the chief.
 24 Q So you appointed yourself chief 1:04:54PM
 25 because nobody is the chief; is that correct?

47 (Pages 185 to 188)

Page 189

1 **GEORGE HESSE**
2 MR. NOVIKOFF: Objection to form. 1:04:58PM
3 MR. CONNOLLY: Join. 1:05:00PM
4 A Everybody calls me the chief. 1:05:01PM
5 **Q So just going back to my question 1:05:04PM**
6 **before. Have you ever spoken with Allison**
7 **Sanchez about this issue?**
8 MR. CALLAHAN: Objection to form. 1:05:11PM
9 MR. CONNOLLY: We're referring to the 1:05:12PM
10 out-of-title issue?
11 MR. GOODSTADT: Yeah, the out-of-title 1:05:14PM
12 issue that's reflected in Hesse 5.
13 A I don't recall. 1:05:17PM
14 **Q Have you ever had any communication 1:05:18PM**
15 **with her about the out-of-title issue?**
16 MR. CALLAHAN: As in 5? 1:05:24PM
17 MR. GOODSTADT: As in 5, yeah. 1:05:25PM
18 A With me? Pertaining to -- 1:05:27PM
19 **Q With respect to your supervisory 1:05:29PM**
20 **capacity being outside of your title?**
21 A I don't recall. 1:05:34PM
22 **Q Do you still have your supervisory 1:05:35PM**
23 **capacity?**
24 A Yes. 1:05:38PM
25 **Q So has anything ever been done to 1:05:39PM**

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1 **GEORGE HESSE**
2 **correct the problem that they're raising in**
3 **Hesse 5?**
4 MR. CALLAHAN: Objection to form. 1:05:45PM
5 MR. NOVIKOFF: Objection to form. 1:05:47PM
6 MR. CONNOLLY: Objection. 1:05:48PM
7 A As of right now, no. 1:05:49PM
8 **Q Is anything scheduled to happen? 1:05:50PM**
9 MR. CALLAHAN: Objection to form. 1:05:53PM
10 A I hope so. 1:05:54PM
11 **Q What's scheduled to happen? 1:05:55PM**
12 A Next -- what is it? June 14th is 1:05:56PM
13 the next sergeant's test.
14 **Q Is there a chief's test? 1:06:00PM**
15 A There is. 1:06:02PM
16 **Q Are you scheduled to take that as 1:06:05PM**
17 **well?**
18 A That just passed. No. 1:06:07PM
19 **Q So you're in the chief role -- I just 1:06:12PM**
20 **want to be clear for the record. You're in the**
21 **chief role at Ocean Beach without ever passing**
22 **the sergeant's test and without ever passing the**
23 **chief's test, correct?**
24 MR. CALLAHAN: Objection to form. 1:06:24PM
25 A Yes. 1:06:25PM

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1 **GEORGE HESSE**
2 **Q Do you know whether Civil Service has 1:06:26PM**
3 **approved the continuation of your supervisory**
4 **capacity being outside of title?**
5 MR. CALLAHAN: Objection to form. 1:06:39PM
6 A Unaware. 1:06:40PM
7 **Q You don't know one way or the other? 1:06:40PM**
8 A No. 1:06:40PM
9 **Q Have you ever spoken to anyone in 1:06:41PM**
10 **Civil Service about that issue?**
11 A No. 1:06:45PM
12 **Q Just to be clear. It's your 1:06:55PM**
13 **understanding that subsequent to January 2006,**
14 **when you were designated deputy chief of police,**
15 **that you haven't been designated in any other**
16 **title by the board; is that correct?**
17 A My employment status had changed as of 1:07:08PM
18 March 27th, 2007.
19 **Q What did that change to? 1:07:15PM**
20 A I was put on modified duty. 1:07:16PM
21 **Q By who? 1:07:19PM**
22 A I believe I received a letter from the 1:07:22PM
23 village, the village board, maybe Mayor Loeffler
24 himself.
25 **Q And what did the modified duty change 1:07:31PM**

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1 **GEORGE HESSE**
2 **with respect to your position at Ocean Beach?**
3 A Technically nothing. 1:07:42PM
4 **Q What do you mean by technically 1:07:45PM**
5 **nothing?**
6 A I was still in charge of the police 1:07:49PM
7 department. The only function I did not
8 regularly do was go on patrol. I was not to
9 wear a uniform. I turned in my weapon. And I
10 basically have done all the administrative work
11 in the department.
12 **Q Did you ever put on your uniform 1:08:05PM**
13 **during the time that you were on modified duty?**
14 A Yes. 1:08:12PM
15 **Q How many times? 1:08:13PM**
16 A Twice. 1:08:15PM
17 **Q How come? 1:08:15PM**
18 A One was for a graduation ceremony for 1:08:17PM
19 three part-time seasonal police officers I was
20 hiring at the time.
21 **Q Was that Mills, Clemmons and Zois? 1:08:26PM**
22 A No. It was Mills, Zois and I believe 1:08:31PM
23 Richard Tomanelli.
24 **Q And what was the other time? 1:08:37PM**
25 A The day that I hired or they got sworn 1:08:40PM

48 (Pages 189 to 192)

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1 GEORGE HESSE
 2 in, Mills, Clemmons, and Zois was promoted to
 3 full-time.
 4 **Q And other than for those two 1:08:51PM**
 5 **occasions, did you put your uniform on at all**
 6 **during the modified duty period?**
 7 A I don't recall if I did for any other 1:08:57PM
 8 reason.
 9 **Q Did your title change during that 1:09:00PM**
 10 **period?**
 11 A No. 1:09:03PM
 12 **Q Did Loeffler take over any of your 1:09:05PM**
 13 **duties?**
 14 A No. 1:09:10PM
 15 **Q Do you still hold yourself out as 1:09:35PM**
 16 **chief of police during the modified duty period?**
 17 A Yes. 1:09:41PM
 18 **Q And the village of Ocean Beach Police 1:09:43PM**
 19 **Department, the letterhead, that identifies you**
 20 **as chief of police?**
 21 A No. It just says police department 1:09:55PM
 22 now under my name.
 23 **Q Did it ever identify you as chief of 1:09:57PM**
 24 **police?**
 25 A Yes. 1:10:00PM

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1 GEORGE HESSE
 2 **Q And who created that letterhead? 1:10:00PM**
 3 A I did. 1:10:02PM
 4 **Q Did anyone approve it? 1:10:02PM**
 5 A No. 1:10:04PM
 6 **Q And you sent letters out on that 1:10:04PM**
 7 **letterhead outside of Ocean Beach?**
 8 A Yes. 1:10:08PM
 9 **Q And why is it changed now to police 1:10:09PM**
 10 **department as opposed to chief of police?**
 11 A Well, I was advised by Mayor Loeffler 1:10:15PM
 12 that maybe I should take that off.
 13 **Q Did he tell you why you should take 1:10:19PM**
 14 **that off?**
 15 A Because I'm working out of class. 1:10:22PM
 16 **Q When did he tell you that? 1:10:27PM**
 17 A I don't recall. 1:10:28PM
 18 **Q When did you change the letterhead? 1:10:29PM**
 19 A I don't recall. 1:10:32PM
 20 **Q Is there anything that would refresh 1:10:35PM**
 21 **your recollection? Do you have a date on your**
 22 **computer that you actually changed it?**
 23 A No. 1:10:42PM
 24 **Q Did you physically make the change? 1:10:43PM**
 25 A Yes. 1:10:45PM

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1 GEORGE HESSE
 2 **Q And what computer did you make the 1:10:46PM**
 3 **change on?**
 4 A I don't know. 1:10:50PM
 5 **Q Was it in your office? 1:10:51PM**
 6 A Well, it's a shared office. 1:10:53PM
 7 **Q But it wasn't a computer at home, it 1:10:55PM**
 8 **was one within the police department?**
 9 A Correct. 1:11:00PM
 10 **Q How many computers are in the office? 1:11:01PM**
 11 A Three. 1:11:02PM
 12 **Q Do you have one on your desk? 1:11:03PM**
 13 A Yes. 1:11:04PM
 14 **Q Where are the other two located? 1:11:05PM**
 15 A One is at the front desk and one is on 1:11:07PM
 16 the back desk.
 17 **Q Do other officers have authority or 1:11:15PM**
 18 **permission to use your computer?**
 19 MR. NOVIKOFF: Objection. 1:11:20PM
 20 BY MR. GOODSTADT: 1:11:21PM
 21 **Q The one that's on your desk? 1:11:21PM**
 22 MR. NOVIKOFF: Compound. 1:11:24PM
 23 A Sometimes. 1:11:24PM
 24 **Q Do they have to ask you first? 1:11:25PM**
 25 A Yes. 1:11:27PM

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1 GEORGE HESSE
 2 **Q Did you ever search that computer for 1:11:34PM**
 3 **documents that may be relevant to this**
 4 **litigation?**
 5 MR. NOVIKOFF: Objection to the form. 1:11:43PM
 6 MR. CONNOLLY: Same objection. 1:11:44PM
 7 MR. NOVIKOFF: Are you asking him to 1:11:46PM
 8 form a legal conclusion as to what may be
 9 relevant?
 10 BY MR. GOODSTADT: 1:11:51PM
 11 **Q Did you ever search the computer in 1:11:51PM**
 12 **connection with this case?**
 13 A I may have. 1:11:55PM
 14 **Q You don't recall one way or the other? 1:11:57PM**
 15 A No. 1:11:59PM
 16 **Q Do you know whether anybody searched 1:11:59PM**
 17 **your computer to see if there were documents**
 18 **that were relevant to this matter?**
 19 A No. 1:12:04PM
 20 MR. NOVIKOFF: Objection. 1:12:05PM
 21 A No. 1:12:06PM
 22 **Q Did anyone ever ask you to search your 1:12:07PM**
 23 **computer?**
 24 MR. NOVIKOFF: In connection with this 1:12:10PM
 25 lawsuit?

49 (Pages 193 to 196)

Page 197

1 GEORGE HESSE
2 MR. GOODSTADT: In connection with 1:12:13PM
3 this matter, yeah.
4 MR. NOVIKOFF: Sure. 1:12:15PM
5 A No. 1:12:16PM
6 **Q Did you ever search your E-mail in 1:12:28PM**
7 **connection with this matter?**
8 A I don't believe so. 1:12:34PM
9 **Q Anyone ever ask you to search your 1:12:34PM**
10 **E-mail in connection with this matter?**
11 A No. 1:12:38PM
12 MR. CONNOLLY: We're talking about his 1:12:39PM
13 work E-mail, correct?
14 BY MR. GOODSTADT: 1:12:41PM
15 **Q Well, what's your work E-mail address? 1:12:42PM**
16 A OBPD@villageofOceanBeach.org. 1:12:47PM
17 **Q How long did you have that E-mail 1:12:53PM**
18 **address?**
19 A You know, I don't know. I don't 1:12:56PM
20 recall.
21 **Q Did you have an E-mail address for 1:13:00PM**
22 **work prior to OBPD@villageofOceanBeach.org?**
23 A I had one that I used, yes. 1:13:10PM
24 **Q What was that E-mail address? 1:13:10PM**
25 A That was OBPD103@aol.com. 1:13:11PM

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1 GEORGE HESSE
2 **Q And when did you have that E-mail 1:13:17PM**
3 **address? What was the file period?**
4 A Probably from -- it's possible from 1:13:21PM
5 '95, when I got promoted. That's was shield
6 number, 103. Until the present.
7 **Q Oh, so you still use that? 1:13:33PM**
8 A Yes. 1:13:34PM
9 **Q And you use the other one, too, 1:13:34PM**
10 **OBPD@villageofOceanBeach.org?**
11 A Yes. 1:13:43PM
12 **Q Did you search the OBPD103@aol 1:13:43PM**
13 **account --**
14 A No. 1:13:45PM
15 **Q -- in connection with this case? 1:13:45PM**
16 A No. 1:13:47PM
17 **Q Did you search the 1:13:47PM**
18 **OBPD@villageofOceanBeach.org E-mail in**
19 **connection with this matter?**
20 A I don't believe so. 1:13:52PM
21 **Q Do you know if anyone did? 1:13:52PM**
22 A No, I don't know. 1:13:54PM
23 **Q Do you use either of those 1:13:56PM**
24 **passwords from a home computer -- strike that.**
25 **Do you use either of those E-mail 1:14:00PM**

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1 GEORGE HESSE
2 **addresses from a home computer?**
3 A Just the OBPD103. It's a personal 1:14:02PM
4 account.
5 **Q Did you ever use any other personal 1:14:11PM**
6 **E-mail addresses?**
7 A Sure. 1:14:15PM
8 **Q Which ones? 1:14:15PM**
9 A I have one that it's 1:14:17PM
10 BeachCop03@aol.com.
11 **Q Any others? 1:14:28PM**
12 A I have BeachCop03@yahoo.com. 1:14:30PM
13 **Q Any others? 1:14:40PM**
14 A Yeah. I had something for an 1:14:42PM
15 investigation. It's ILUVFI159@yahoo.com.
16 **Q Does that stand for I love Fire 1:15:03PM**
17 **Island?**
18 A Yes. 1:15:07PM
19 **Q And what is the 159? 1:15:08PM**
20 A I don't know. I just made up a 1:15:09PM
21 number.
22 **Q Does anyone have a shield 159 at Ocean 1:15:11PM**
23 **Beach?**
24 A No. 1:15:15PM
25 **Q Any other E-mail addresses that you've 1:15:15PM**

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1 GEORGE HESSE
2 **used in the last 10 years, personal E-mail**
3 **addresses?**
4 A I don't recall. 1:15:21PM
5 **Q Did you search the BeachCop03@aol 1:15:21PM**
6 **E-mail address in connection with this case?**
7 A No. 1:15:28PM
8 **Q Did you search the 1:15:28PM**
9 **BeachCop03@yahoo.com in connection with this**
10 **matter?**
11 A No. 1:15:34PM
12 **Q Did you search the ILUVFI159@yahoo.com 1:15:34PM**
13 **E-mail address in connection with this matter?**
14 A No. 1:15:43PM
15 **Q Did anyone ask you to search those 1:15:43PM**
16 **three E-mail accounts?**
17 A No. 1:15:47PM
18 MR. GOODSTADT: It's a good time to 1:16:01PM
19 take a break.
20 THE VIDEOGRAPHER: That is the end of 1:16:04PM
21 Tape No. 2. The time is now 1:16 p.m.
22 We are now off the record. 1:16:08PM
23 (Whereupon, a discussion was held off 1:16:09PM
24 the record.)
25 THE VIDEOGRAPHER: This is the start 2:04:42PM

50 (Pages 197 to 200)

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1 GEORGE HESSE
2 ever Tape No. 3.
3 The time is now 2:06 p.m. We are now 2:05:50PM
4 back on the record.
5 BY MR. GOODSTADT: 2:05:54PM
6 **Q Mr. Hesse, prior to us breaking for 2:05:55PM**
7 **lunch, we discussed a Sergeant Betenhouse.**
8 **Do you remember that? 2:06:02PM**
9 A Betenhauser, yes. 2:06:04PM
10 **Q Betenhauser. 2:06:05PM**
11 **And you indicated that he passed the 2:06:05PM**
12 **sergeant's test; is that correct?**
13 A Yes. 2:06:10PM
14 **Q Did he pass the Suffolk County 2:06:10PM**
15 **sergeant's test or New York City sergeant's**
16 **test?**
17 MR. NOVIKOFF: Objection. 2:06:16PM
18 A New York City. 2:06:16PM
19 **Q Do you know whether that satisfies the 2:06:17PM**
20 **requirement to pass the test to be a sergeant in**
21 **Suffolk County?**
22 MR. CALLAHAN: Objection to form. 2:06:21PM
23 MR. NOVIKOFF: Objection. 2:06:22PM
24 A I don't know. 2:06:23PM
25 **Q So you don't know one way or the 2:06:24PM**

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1 GEORGE HESSE
2 **other?**
3 A No. 2:06:26PM
4 **Q I believe you testified that your 2:06:34PM**
5 **wife's name is Sharon, did you say?**
6 A Shannon. 2:06:38PM
7 **Q I apologize for that. Shannon. 2:06:38PM**
8 **How long have you been married? 2:06:40PM**
9 A A little over 13 years. 2:06:41PM
10 **Q Is she your first wife? 2:06:45PM**
11 A Yes. 2:06:46PM
12 **Q Have you ever cheated on her? 2:06:49PM**
13 MR. CONNOLLY: Objection. 2:06:52PM
14 MR. NOVIKOFF: Whoa. Whoa. 2:06:53PM
15 MR. GOODSTADT: It's part of the 2:06:56PM
16 allegations in the case. You know it is.
17 MR. NOVIKOFF: Well, just because you 2:06:58PM
18 allege it in the case doesn't make it
19 relevant. But he's not my witness, so I
20 can't tell him not to answer or not.
21 MR. CONNOLLY: Objection. Do you want 2:07:05PM
22 to -- objection.
23 MR. GOODSTADT: You can mark it as 2:07:08PM
24 confidential, you can do what you want, but
25 it's certainly relevant.

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1 GEORGE HESSE
2 MR. NOVIKOFF: Well, like I said, it's 2:07:14PM
3 not my witness. I can't say anything.
4 MR. CONNOLLY: In terms of the 2:07:18PM
5 complaint?
6 MR. GOODSTADT: In terms of the 2:07:21PM
7 complaint.
8 MR. CONNOLLY: On duty? 2:07:22PM
9 MR. GOODSTADT: There are several 2:07:25PM
10 allegations with respect to that, yes.
11 MR. CONNOLLY: As to -- why don't you 2:07:29PM
12 ask him the allegation, you know, as
13 contained in the complaint.
14 MR. GOODSTADT: Well, because I'm 2:07:38PM
15 going to work my way to that. As
16 Mr. Novikoff likes to do, set a foundation.
17 Then I'll have an objection on foundation
18 grounds now.
19 MR. NOVIKOFF: Well, you could ask 2:07:51PM
20 him -- well, first of all, I'm staying out
21 of this.
22 You're not my witness. I would never 2:07:55PM
23 let you answer it, but it's not for me to
24 make that decision.
25 MR. CONNOLLY: Why don't we do it this 2:08:03PM

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1 GEORGE HESSE
2 way. I'm going to object. It's something
3 we can bring up to the judge when we bring
4 up other items. Why don't we continue.
5 He's coming back. You'll have an
6 opportunity.
7 MR. NOVIKOFF: And we do have an 2:08:17PM
8 appearance now on June 11th.
9 MR. GOODSTADT: Right. I saw that. I 2:08:21PM
10 saw that.
11 So you're instructing him not to 2:08:23PM
12 answer pending a --
13 MR. CONNOLLY: Guidance from the 2:08:26PM
14 court.
15 MR. GOODSTADT: Guidance from the 2:08:28PM
16 court?
17 MR. CONNOLLY: I mean, we do have a 2:08:29PM
18 lot of get through here.
19 MR. GOODSTADT: I understand. I 2:08:38PM
20 certainly understand that. I'm just trying
21 to figure out if we want to get on the phone
22 with the court right now. I think it's
23 relevant to this whole next line of
24 questioning.
25 MR. CONNOLLY: And again, this next 2:08:47PM

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1 GEORGE HESSE
 2 line of questioning, I'm sure, is a portion
 3 of a much further line of questioning that
 4 we could segregate and address at a later
 5 time if need be.
 6 MR. GOODSTADT: Let me just ask him 2:09:01PM
 7 questions, and then we'll figure out if I
 8 need to get back to that question.
 9 MR. NOVIKOFF: Okay. Okay. 2:09:06PM
 10 BY MR. GOODSTADT: 2:09:13PM
 11 Q Mr. Hesse, have you ever posted on any 2:09:14PM
 12 social networking sites?
 13 A Yes. 2:09:19PM
 14 Q Okay. Which ones? 2:09:20PM
 15 A Adult Friend Finder. Ashley 2:09:23PM
 16 Madison.com. And I don't recall, there may have
 17 been others. You know what, there is one more.
 18 Loveinuniform.com.
 19 Q L-O-V-E-I-N-U-N-I-F-O-R-M? 2:09:53PM
 20 A Spell it again. 2:09:59PM
 21 Q L-O-V-E-I-N-U-N-I-F-O-R-M.com? 2:10:00PM
 22 A That sounds right. 2:10:06PM
 23 Q Any others? 2:10:07PM
 24 MR. CONNOLLY: Just note my continuing 2:10:08PM
 25 objection to this line of questioning.

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1 GEORGE HESSE
 2 MR. GOODSTADT: Sure. 2:10:11PM
 3 A Not that I recall. I don't know. 2:10:11PM
 4 Q Did you post on a site called -- I 2:10:13PM
 5 don't know how to pronounce it. It's spelled
 6 M-I-G-E-N-T-E.com?
 7 A What is it? 2:10:20PM
 8 Q Migente, M-I-G-E-N-T-E.com? 2:10:23PM
 9 A Yes, actually I did for a short period 2:10:26PM
 10 of time.
 11 Q How about on a website called 2:10:31PM
 12 Fubar.com, F-U-B-A-R?
 13 A Yes. 2:10:36PM
 14 Q How about on any Yahoo age-restricted 2:10:39PM
 15 groups?
 16 MR. CONNOLLY: Objection. 2:10:47PM
 17 MR. NOVIKOFF: Yeah, I don't know what 2:10:48PM
 18 that means.
 19 BY MR. GOODSTADT: 2:10:50PM
 20 Q A Solena party Yahoo group, do you 2:10:50PM
 21 recall posting on that? S-O-L-E-N-A party.
 22 A It's not a post. It's a group. 2:11:03PM
 23 Q Have you ever posted on that site? 2:11:05PM
 24 A No. 2:11:07PM
 25 Q Sure about that? 2:11:08PM

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1 GEORGE HESSE
 2 A I never posted anything that I recall 2:11:11PM
 3 other than joining the group.
 4 Q You don't recall posting any messages 2:11:18PM
 5 on that site?
 6 A I don't recall. 2:11:21PM
 7 Q Okay. How about any AOL social groups 2:11:21PM
 8 or networking groups?
 9 A I don't know if AOL has any social 2:11:30PM
 10 networking groups. It's a -- it's just a user
 11 site. They have chat rooms and stuff like that.
 12 Q What was the user name you used on 2:11:40PM
 13 Adult Friend Finder?
 14 A You know, I don't recall. 2:11:45PM
 15 Q What E-mail address did you use? 2:11:48PM
 16 A BeachCop03. 2:11:51PM
 17 MR. NOVIKOFF: BeachCop what? 2:11:55PM
 18 THE WITNESS: BeachCop03. 2:11:57PM
 19 BY MR. GOODSTADT: 2:11:59PM
 20 Q @aol.com? 2:11:59PM
 21 A Yes. 2:12:01PM
 22 Q What name did you use on 2:12:02PM
 23 AshleySabrina.com?
 24 A It wasn't Ashley Sabrina. 2:12:09PM
 25 Q Oh, it wasn't? Ashley Madison. I 2:12:12PM

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1 GEORGE HESSE
 2 apologize for that.
 3 What user name did you use on that? 2:12:19PM
 4 A It might be Copper103. 2:12:24PM
 5 Q C-O-P-P-E-R 103? 2:12:28PM
 6 A Yes. 2:12:30PM
 7 Q And what E-mail address did you use? 2:12:31PM
 8 A BeachCop103. 2:12:33PM
 9 Q What user name did you use on 2:12:36PM
 10 loveinuniform.com?
 11 A That is, I believe BeachCopp with two 2:12:43PM
 12 Ps at the end.
 13 Q What E-mail address did you use? 2:12:48PM
 14 A BeachCop03@aol.com. 2:12:50PM
 15 MR. CONNOLLY: Andrew, I'm going to 2:12:58PM
 16 cut this off at this point.
 17 MR. GOODSTADT: How come? 2:13:01PM
 18 MR. CONNOLLY: Where are you going 2:13:03PM
 19 with it? There are allegations contained in
 20 the complaint regarding chauffeuring my
 21 client around.
 22 MR. GOODSTADT: Yeah, to different 2:13:12PM
 23 sexual escapades, right. I'm setting a
 24 foundation that he's engaged in sexual
 25 escapades. It certainly leads a lot of

52 (Pages 205 to 208)

Page 209

1 GEORGE HESSE
2 credibility toward the allegations, correct?
3 You have to --
4 MR. CONNOLLY: Why don't you ask him 2:13:28PM
5 questions limited to the complaint; and if
6 you need to, we'll bring this before the
7 court.
8 MR. GOODSTADT: Well, let me just go 2:13:36PM
9 back.
10 MR. NOVIKOFF: My only comment would 2:13:39PM
11 be that to the extent it's even relevant,
12 it's certainly not relevant after the date
13 that these officers were either not rehired
14 or fired, however we term that date to be.
15 But like I said, that's my only comment.
16 BY MR. GOODSTADT: 2:13:56PM
17 **Q Well, did you ever post on any of 2:13:57PM**
18 **these social network sites from the police**
19 **station computers?**
20 A I've checked E-mails. 2:14:03PM
21 **Q Did you ever post any pictures of 2:14:07PM**
22 **yourself on these sites?**
23 A Yes. 2:14:10PM
24 **Q In uniform? 2:14:10PM**
25 A Yes. 2:14:11PM

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1 GEORGE HESSE
2 **Q In the Ocean Beach police uniform? 2:14:11PM**
3 A Yes. 2:14:13PM
4 **Q Did you notify anybody in the beach 2:14:20PM**
5 **that you were posting pictures of yourself on**
6 **these social websites in uniform?**
7 MR. NOVIKOFF: Note my objection to 2:14:27PM
8 that question.
9 MR. CONNOLLY: Objection also. 2:14:28PM
10 A Did I -- I don't understand the 2:14:31PM
11 question.
12 **Q Did you notify anyone at the beach, 2:14:32PM**
13 **the mayor, the board, Chief Paradiso when he was**
14 **there?**
15 A No. 2:14:38PM
16 **Q Do you know if there are any rules 2:14:41PM**
17 **regarding pictures of yourself in a uniform**
18 **anywhere or posing in a uniform for anything?**
19 A Are there rules? 2:14:52PM
20 **Q Are there any rules? 2:14:54PM**
21 A Not that I'm aware of. 2:14:55PM
22 **Q Did you ever send or respond to any 2:14:57PM**
23 **E-mails that you checked from the Ocean Beach**
24 **police computer?**
25 A Yes. 2:15:23PM

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1 GEORGE HESSE
2 **Q How many times? 2:15:24PM**
3 A Oh, I don't know. 2:15:26PM
4 **Q What years? 2:15:26PM**
5 A I don't know. 2:15:28PM
6 **Q Do you know when it started that you 2:15:29PM**
7 **first started checking E-mails at the police**
8 **station on any of these social network websites?**
9 A When it started, no. 2:15:36PM
10 **Q You don't recall what year? 2:15:38PM**
11 A No. 2:15:40PM
12 **Q Do you still check E-mails from any of 2:15:42PM**
13 **these websites?**
14 A Yes. 2:15:45PM
15 **Q Which ones? 2:15:45PM**
16 A Ashley Madison and the loveinuniform 2:15:48PM
17 and Fubar.
18 MR. CONNOLLY: Objection to any 2:16:01PM
19 questioning since April 2nd, 2006 in this
20 regard.
21 MR. GOODSTADT: The objection, I don't 2:16:08PM
22 think it's a -- relevance is not a basis to
23 instruct the witness not to answer, you
24 know. We're more than willing to have your
25 objection on the record. We can bring it up

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1 GEORGE HESSE
2 to the court when we raise all these other
3 issues.
4 MR. CONNOLLY: It will be brought up 2:16:24PM
5 to the court.
6 MR. GOODSTADT: Right. Okay. 2:16:26PM
7 Now I'll suspended the questioning on 2:16:53PM
8 this. I just want to ask him what E-mail
9 addresses he used, and then I'll suspend
10 other questions on this pending our
11 discussion with the court. I just want on
12 the record what E-mail address were used, if
13 that's all right with you.
14 MR. CONNOLLY: Why don't we just refer 2:17:09PM
15 the questions to the court and move on.
16 We're coming back on the 16th. It's not
17 your only shot at the apple.
18 MR. GOODSTADT: I know. Why don't you 2:17:27PM
19 just give me a minute off the record just to
20 think about it and see how it plays into the
21 next set of questions.
22 THE VIDEOGRAPHER: The time is 2:17:39PM
23 2:17 p.m. We are now off the record.
24 (Whereupon, a discussion was held off 2:17:43PM
25 the record.)

53 (Pages 209 to 212)

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1 GEORGE HESSE
2 THE VIDEOGRAPHER: The time is now 2:28:13PM
3 2:28 p.m. We are now back on the record.
4 MR. GOODSTADT: Okay. Before we took 2:28:18PM
5 that break, Mr. Connolly and I conferred off
6 the record and decided that on this subject
7 I was going to ask just a limited number of
8 questions that we've agreed to, and it's
9 going to be certain topics that will be
10 subject to further discussion with the
11 court.
12 Is that acceptable, Mr. Connolly? 2:28:36PM
13 MR. CONNOLLY: That's acceptable. 2:28:38PM
14 BY MR. GOODSTADT: 2:28:39PM
15 **Q Now, Mr. Hesse, have you ever met any 2:28:39PM**
16 **of the people that you've posted with or**
17 **E-mailed with on any social network site in**
18 **person?**
19 A Yes. 2:28:51PM
20 MR. NOVIKOFF: Objection. 2:28:52PM
21 MR. CONNOLLY: Continuing objection. 2:28:53PM
22 BY MR. GOODSTADT: 2:28:54PM
23 **Q And did you ever meet with any of 2:28:55PM**
24 **those people that you've E-mailed with or posted**
25 **with on these social network sites on Fire**

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1 GEORGE HESSE
2 **Island?**
3 A No. 2:29:06PM
4 **Q So it was off of Fire Island? 2:29:14PM**
5 A Yes. 2:29:16PM
6 MR. NOVIKOFF: Objection. 2:29:17PM
7 MR. CONNOLLY: Objection. 2:29:18PM
8 MR. NOVIKOFF: If it's not on. 2:29:20PM
9 MR. GOODSTADT: I just want to make 2:29:21PM
10 sure.
11 BY MR. GOODSTADT: 2:29:24PM
12 **Q And the pictures that you posted on 2:29:27PM**
13 **these sites, did you ever post them from the**
14 **police station computer? I just want to know**
15 **physically where you uploaded them from.**
16 MR. CONNOLLY: Objection. 2:29:37PM
17 A I may have. 2:29:39PM
18 **Q Okay. 2:29:40PM**
19 MR. GOODSTADT: And again, the rest of 2:29:43PM
20 the questions will just be subject to motion
21 or discussion with the court.
22 BY MR. GOODSTADT: 2:29:52PM
23 **Q Have you ever posted on Facebook? 2:29:53PM**
24 A Yes. Yes. 2:29:55PM
25 **Q Did you ever change any of your 2:29:55PM**

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1 GEORGE HESSE
2 **privacy settings in Facebook in your posting?**
3 A Yes. 2:30:00PM
4 **Q What did you change your privacy 2:30:00PM**
5 **settings to?**
6 A From public to private. 2:30:03PM
7 **Q And did you ever post on My Space? 2:30:14PM**
8 A Yes. 2:30:16PM
9 **Q Did you ever change your privacy 2:30:17PM**
10 **settings on Myspace.com?**
11 A I don't know if they had a way that 2:30:23PM
12 you can do that. I'm not sure.
13 **Q What did you do, if anything, to 2:30:42PM**
14 **prepare for today's deposition?**
15 A I met with my attorney on Monday and 2:30:47PM
16 Tuesday.
17 **Q When you say your attorney, who are 2:30:50PM**
18 **you referring to?**
19 A Mr. Connolly. 2:30:57PM
20 **Q And where did you meet with him? 2:30:58PM**
21 A In Westchester, at his office. 2:31:00PM
22 **Q Who was present at the meeting? 2:31:03PM**
23 A Just he and I. 2:31:05PM
24 **Q How long did you meet with him? 2:31:08PM**
25 **Without telling me anything that you said to him**

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1 GEORGE HESSE
2 **or he said to you, how long did you meet with**
3 **him on each of those days?**
4 MR. CONNOLLY: Exclusive of lunch, 2:31:17PM
5 breaks?
6 MR. GOODSTADT: Yeah. Just meeting 2:31:21PM
7 time. Either inclusive or exclusive.
8 A On Monday, I arrived at 9:30, and at 2:31:26PM
9 some point we took lunch, and I believe I left
10 somewhere around 5:00.
11 **Q How about Tuesday? 2:31:36PM**
12 A Tuesday I arrived at 9:30, and I 2:31:37PM
13 believe I left at 4:00.
14 **Q Were you on the clock at the beach at 2:31:48PM**
15 **the time?**
16 A Yes. 2:31:50PM
17 **Q So you got paid for that -- those two 2:31:51PM**
18 **days?**
19 A Yes. 2:31:53PM
20 **Q Are you on the clock today for the 2:31:54PM**
21 **beach?**
22 A Yes. 2:31:56PM
23 **Q So you're getting paid for today as 2:31:56PM**
24 **well?**
25 A Yes. 2:31:58PM

54 (Pages 213 to 216)

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1 GEORGE HESSE
2 Q And again, don't tell me anything that 2:32:04PM
3 you said to your attorney or your attorney said
4 to you. But did you review any documents in
5 preparation for today's deposition?
6 A Yes. 2:32:13PM
7 Q Did any of those documents refresh 2:32:14PM
8 your recollection as to any of the facts or
9 events that happened or that are alleged to have
10 happened in this case?
11 A No. 2:32:27PM
12 Q Did you speak with -- well, strike 2:32:36PM
13 that.
14 Have you ever -- other than for today, 2:32:39PM
15 sitting in this room, have you ever spoken to
16 any lawyers from Rivkin Radler in connection
17 with this matter?
18 MR. NOVIKOFF: Objection. Asked and 2:32:48PM
19 answered.
20 A No. 2:32:49PM
21 Q Did you speak with anybody -- any 2:32:52PM
22 current or former Ocean Beach employees in
23 preparation for today's deposition?
24 A No. 2:33:00PM
25 Q Did you tell anybody at the beach that 2:33:03PM

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1 GEORGE HESSE
2 you were coming today for the deposition?
3 A Yes. 2:33:06PM
4 Q Who did you tell? 2:33:07PM
5 A Ty Bacon, John -- Pat Cherry, Pat 2:33:10PM
6 Cherry, Jr., Joe Dediminico, Billy Bambrick,
7 Hank Clemmons, Michael Mills, John Zois. It's
8 possible a few other.
9 Q Did you tell Joe Loeffler? 2:33:43PM
10 A I told him I was scheduled for today, 2:33:47PM
11 yes.
12 Q Did you discuss anything else with him 2:33:55PM
13 about this case in that conversation --
14 A No. 2:33:59PM
15 Q -- other than the fact that you were 2:33:59PM
16 scheduled to come for a deposition?
17 A No. 2:34:03PM
18 Q How did you tell the other people, 2:34:04PM
19 Bacon, Cherry, Cherry junior, Dediminico, et
20 cetera? Did you tell them verbally or did you
21 send out an E-mail or a letter or memo or some
22 other way?
23 A Verbal. 2:34:16PM
24 Q Did you tell them all together or 2:34:16PM
25 separately?

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1 GEORGE HESSE
2 A Separately. 2:34:19PM
3 Q What did Bacon say when you told him 2:34:20PM
4 you were coming in for the deposition?
5 A Good luck. 2:34:25PM
6 Q Did you discuss the substance of the 2:34:26PM
7 claims at all with Bacon?
8 A No. 2:34:29PM
9 Q Did you ever discuss with Bacon 2:34:29PM
10 anything about his deposition that was taken in
11 this case?
12 A Just the fact that he had come and was 2:34:34PM
13 34PM
14 deposited.
15 Q Do you recall what he said about that? 2:34:37PM
16 A No. 2:34:41PM
17 Q So you don't recall anything 2:34:46PM
18 substantive about what he said other than for
19 the fact that he was deposited?
20 A No substance. 2:34:52PM
21 Q Did you ever review his transcript or 2:34:53PM
22 any excerpts of his transcript from this
23 deposition?
24 A No. 2:34:59PM
25 Q And when you told Pat Cherry that you 2:34:59PM
were coming in today, what did he say in that

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1 GEORGE HESSE
2 conversation?
3 A Good luck. 2:35:04PM
4 Q Anything else? 2:35:05PM
5 A No. 2:35:06PM
6 Q Did you discuss the substance of the 2:35:06PM
7 claims or allegations in this case with him?
8 A No. 2:35:11PM
9 Q Did you ever discuss with Pat Cherry 2:35:11PM
10 anything about his deposition that was taken in
11 this case?
12 A No. 2:35:17PM
13 Q Did he tell you that he was coming for 2:35:19PM
14 a deposition?
15 A Yes. 2:35:21PM
16 Q Did you speak to him after his 2:35:22PM
17 deposition?
18 A Yes. 2:35:24PM
19 Q About the deposition? 2:35:24PM
20 A Yes. 2:35:25PM
21 Q And what did he say about it? 2:35:25PM
22 A He said it went all right. 2:35:27PM
23 Q Anything else? 2:35:29PM
24 A No. 2:35:29PM
25 Q Did you discuss the substance at all, 2:35:30PM

55 (Pages 217 to 220)

Page 221

1 **GEORGE HESSE**
2 **any of the questions that were asked?**
3 A No. 2:35:34PM
4 **Q Did you ever review his transcript or 2:35:35PM**
5 **any excerpts from his transcript from the**
6 **deposition in this case?**
7 A Yes. 2:35:41PM
8 **Q When did you do that? 2:35:42PM**
9 A I don't know the exact date, but I had 2:35:44PM
10 requested since I wasn't going to be present for
11 the depositions, if Mr. Connolly could send me a
12 copy so I could just look at them.
13 **Q Of just Cherry's or everybody's? 2:35:55PM**
14 A Of everybody's. 2:35:58PM
15 **Q So you reviewed everybody's deposition 2:35:59PM**
16 **transcripts in this case?**
17 A No. 2:36:02PM
18 **Q Which ones have you reviewed? 2:36:03PM**
19 A I have read Mr. Snyder's. I've read 2:36:04PM
20 Kevin Lamm's. I read Joe Nofi's. I read Eddie
21 Carter's. I read Maryann Minerva's. I read I
22 think the first half of Natalie Rogers. That
23 may be it.
24 **Q Did you read Joe Loeffler's? 2:36:41PM**
25 A No. 2:36:44PM

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1 **GEORGE HESSE**
2 **Q Did you read Allison Sanchez? 2:36:44PM**
3 A No. 2:36:46PM
4 **Q Did you speak with Minerva about her 2:36:47PM**
5 **deposition?**
6 MR. NOVIKOFF: Before or after? 2:36:51PM
7 MR. GOODSTADT: Either. 2:36:52PM
8 MR. NOVIKOFF: Okay. 2:36:54PM
9 MR. GOODSTADT: I'm trying to truncate 2:36:55PM
10 some of the questions.
11 A Yes. 2:36:57PM
12 **Q Before or after? 2:36:58PM**
13 A Before and after. 2:36:59PM
14 **Q What did you discuss with her before 2:36:59PM**
15 **her deposition?**
16 A Just the fact that she was coming. 2:37:02PM
17 **Q Have you ever discussed -- before her 2:37:04PM**
18 **deposition, did you ever discuss the substance**
19 **of any of the allegations made in the complaint?**
20 A Just like I said previous, that it was 2:37:11PM
21 baseless.
22 **Q But nothing specific about any of the 2:37:13PM**
23 **specific allegations?**
24 A Nothing specific, no. 2:37:17PM
25 **Q Okay. And did you speak with her 2:37:18PM**

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1 **GEORGE HESSE**
2 **after the deposition --**
3 A Yes. 2:37:23PM
4 **Q -- as well? 2:37:23PM**
5 **And when did you speak with her after 2:37:24PM**
6 **her deposition?**
7 A Maybe a day or two after. 2:37:27PM
8 **Q And what did she say in that 2:37:29PM**
9 **conversation?**
10 A Other than she had to go to the city, 2:37:34PM
11 she had a headache and that she felt slightly
12 intimidated by Mr. Fiorillo, that was it.
13 **Q Did she tell you anything 2:37:45PM**
14 **substantively about her deposition?**
15 A No. 2:37:48PM
16 **Q How about Natalie Rogers, did you ever 2:37:52PM**
17 **speak to her about her deposition?**
18 A No. 2:37:57PM
19 **Q Did you ever speak with Joe Loeffler 2:37:59PM**
20 **about his deposition?**
21 A No, other than the fact that he came 2:38:03PM
22 and took -- and gave his deposition.
23 **Q You didn't speak anything 2:38:07PM**
24 **substantive -- you didn't speak anything with**
25 **him about the substance of his deposition?**

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1 **GEORGE HESSE**
2 A No. 2:38:13PM
3 **Q Did you speak with -- strike that. 2:38:15PM**
4 **Did you read the transcript of Gary 2:38:18PM**
5 **Bosetti's deposition?**
6 A No. 2:38:21PM
7 **Q How about Richard Bosetti's 2:38:22PM**
8 **deposition?**
9 A No. I haven't received them. 2:38:24PM
10 **Q Have you spoken with either of them 2:38:25PM**
11 **about their depositions?**
12 A Just Gary, as far as him just coming 2:38:28PM
13 to give his deposition. And Richie also. I'm
14 sorry, yes.
15 **Q Before they took their depositions or 2:38:36PM**
16 **after?**
17 A I believe they -- Gary had called me 2:38:38PM
18 just to advise me that he was coming in and Gary
19 himself called me again to tell me that Richie
20 was going in, and then he called me to tell me
21 that either he was done or his brother was done.
22 **Q Did he tell you anything substantively 2:38:53PM**
23 **about their depositions?**
24 A No. 2:38:57PM
25 **Q Did you see the Bosettis in the 2:38:57PM**

56 (Pages 221 to 224)

Page 225

1 **GEORGE HESSE**
2 **hospital after Rich Bosetti was in a motorcycle**
3 **accident?**
4 A Yes, I did. 2:39:04PM
5 **Q Did you discuss anything at all about 2:39:05PM**
6 **this case with them at that time?**
7 A No. 2:39:09PM
8 **Q Did you discuss anything about their 2:39:10PM**
9 **depositions with them at that time?**
10 A No. 2:39:12PM
11 **Q Did you ever read Allison Sanchez's 2:39:16PM**
12 **transcript?**
13 A I don't believe I received hers 2:39:21PM
14 either.
15 **Q Have you spoken with Ms. Sanchez at 2:39:22PM**
16 **all about her deposition?**
17 A Very briefly, yes. 2:39:26PM
18 **Q When did you speak to her? 2:39:27PM**
19 A I ran into her in Riverhead court one 2:39:29PM
20 day. I don't remember the specific day. And
21 she just said that he had come to the
22 deposition, and that was it. I introduced her
23 to my wife, and we just chatted for a little
24 bit.
25 **Q Did you tell her -- strike that. 2:39:43PM**

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1 **GEORGE HESSE**
2 **Did she tell you anything substantive 2:39:45PM**
3 **about her deposition?**
4 A The only thing that she did mention 2:39:48PM
5 was the part about sexual relations between me
6 and her, and she said she threw up in her mouth
7 and she laughed.
8 MR. NOVIKOFF: She actually did throw 2:39:58PM
9 up.
10 A She thought it was a joke. 2:40:01PM
11 **Q Did she say anything else about her 2:40:05PM**
12 **deposition?**
13 A No. Our conversation was actually 2:40:08PM
14 pretty brief. She had a -- she's a parole
15 officer now. So she had to move on and do her
16 job, I guess. I don't know.
17 **Q After you received the complaint in 2:40:20PM**
18 **this case, did you ever discuss the substantive**
19 **allegations with Allison Sanchez?**
20 A I believe that we did discuss the 2:40:27PM
21 allegation of us having a sexual relationship.
22 That would be it.
23 **Q When did you have that discussion? 2:40:33PM**
24 A I don't recall. 2:40:34PM
25 **Q What was the substance of that 2:40:39PM**

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1 **GEORGE HESSE**
2 **discussion?**
3 A How funny it was that somebody would 2:40:42PM
4 make an allegation like that.
5 **Q Anything else that you discussed about 2:40:49PM**
6 **that allegation?**
7 A Yeah. She said that she couldn't 2:40:56PM
8 believe that the allegation was made by these
9 individuals, especially since they were in her
10 office and they saw pictures of her partner on
11 the wall, that these guys must not be very good
12 investigators.
13 **Q What do you mean by that, saw pictures 2:41:12PM**
14 **of her on the wall?**
15 MR. NOVIKOFF: What does he mean by 2:41:18PM
16 that?
17 BY MR. GOODSTADT: 2:41:20PM
18 **Q Do you know what she meant by that? 2:41:20PM**
19 MR. CALLAHAN: Objection to form. 2:41:23PM
20 A By the fact that they were in her 2:41:24PM
21 office and she had pictures of her partner all
22 over the place.
23 **Q And how did she reach the conclusion, 2:41:31PM**
24 **if you know, that they weren't very good**
25 **investigators?**

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1 **GEORGE HESSE**
2 MR. CALLAHAN: Objection to form. 2:41:42PM
3 MR. NOVIKOFF: Yeah, I join in. 2:41:43PM
4 A She flat out said that she didn't 2:41:44PM
5 think they were smart cops.
6 **Q And her conclusion was based on the 2:41:48PM**
7 **fact that --**
8 MR. CALLAHAN: Objection to form. 2:41:52PM
9 MR. GOODSTADT: We're objecting now 2:41:54PM
10 before questions are even asked?
11 MR. CALLAHAN: I thought you were 2:42:11PM
12 done.
13 MR. GOODSTADT: No, I wasn't. 2:42:12PM
14 MR. NOVIKOFF: Just note my objection 2:42:15PM
15 to all the questions.
16 MR. GOODSTADT: Welch can step in. 2:42:21PM
17 BY MR. GOODSTADT: 2:42:28PM
18 **Q Do you know what her conclusion was 2:42:28PM**
19 **based on?**
20 MR. CALLAHAN: Objection to form. 2:42:31PM
21 MR. NOVIKOFF: I join. 2:42:33PM
22 A I would say it was based on the fact 2:42:34PM
23 that they made this allegation that I had sexual
24 relations with her, when she was, in fact, a
25 lesbian.

57 (Pages 225 to 228)

Page 229

1 GEORGE HESSE
2 **Q Does the fact that she's a lesbian 2:42:44PM**
3 **preclude that allegation from being true?**
4 MR. CALLAHAN: Objection to form. 2:42:45PM
5 MR. NOVIKOFF: Physically? 2:42:46PM
6 MR. GOODSTADT: Yeah. 2:42:48PM
7 MR. NOVIKOFF: I think the record 2:42:48PM
8 could reflect that we can all stipulate that
9 lesbians can have sex with men.
10 MR. GOODSTADT: Okay. 2:42:55PM
11 BY MR. GOODSTADT: 2:42:55PM
12 **Q You testified when you were a 2:43:00PM**
13 **sergeant, that your tours were on Friday,**
14 **Saturday nights; is that correct?**
15 A Correct. 2:43:09PM
16 **Q And you were the most senior officer 2:43:10PM**
17 **on that tour?**
18 A Yes. 2:43:13PM
19 **Q Now, if an officer on your tour had a 2:43:16PM**
20 **problem or a complaint in the chain of the**
21 **command, would they come to you with that**
22 **problem or complaint?**
23 A If they were working a tour with me 2:43:26PM
24 they would probably come right to me first.
25 **Q That's the way the chain of command 2:43:31PM**

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1 GEORGE HESSE
2 **works?**
3 A Sure. 2:43:33PM
4 **Q And did you ever hear Paradiso tell 2:43:37PM**
5 **the officers in Ocean Beach or any officer in**
6 **Ocean Beach that what happens on my tour, I'm**
7 **handling; what happens on officer Hesse's tour**
8 **he handles?**
9 A I never heard that. 2:43:51PM
10 **Q You never heard that. 2:43:53PM**
11 **Was there a set -- let's go to 2003. 2:44:03PM**
12 **Was there a set group of guys that were on your**
13 **tour?**
14 A I would say yes, but it fluctuated 2:44:13PM
15 from day to day.
16 **Q Who generally would be on your tour, 2:44:16PM**
17 **the core group?**
18 A 2003, I'd have to look at the 2:44:19PM
19 schedule. I don't know.
20 **Q Was Ed Carter on your tour a lot in 2:44:24PM**
21 **'03?**
22 A Sometimes. 2:44:29PM
23 **Q How about Tom Snyder? 2:44:29PM**
24 A Sometimes. 2:44:31PM
25 **Q Joe Nofi? 2:44:33PM**

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1 GEORGE HESSE
2 A Sometimes. 2:44:34PM
3 **Q Kevin Lamm? 2:44:35PM**
4 A Sometimes. 2:44:36PM
5 **Q How about Frank Fiorillo? 2:44:38PM**
6 A And sometimes, yeah. 2:44:39PM
7 **Q How about in '04, was Carter on your 2:44:42PM**
8 **tour a lot?**
9 MR. NOVIKOFF: Objection. 2:44:46PM
10 What do you mean by a lot? 2:44:48PM
11 MR. GOODSTADT: Well, I think I asked 2:44:50PM
12 if there was a set group of guys, and he
13 said generally there were, but it
14 fluctuated.
15 BY MR. GOODSTADT: 2:44:56PM
16 **Q So would Carter be one of the general 2:44:56PM**
17 **group of guys that were on your tour in '04?**
18 A Sometimes. 2:45:03PM
19 **Q How about Snyder? 2:45:03PM**
20 A Sometimes. 2:45:04PM
21 **Q Nofi? 2:45:05PM**
22 A Sometimes. 2:45:05PM
23 **Q Lamm? 2:45:06PM**
24 A Sometimes. 2:45:07PM
25 **Q Fiorillo? 2:45:08PM**

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1 GEORGE HESSE
2 A Sometimes. 2:45:08PM
3 **Q How about in '03, would Gary Bosetti? 2:45:09PM**
4 A Very rarely, but sometimes, yeah. 2:45:12PM
5 **Q How about Rich Bosetti? 2:45:14PM**
6 A Same thing, sometimes. 2:45:16PM
7 **Q What tour did they generally work in 2:45:17PM**
8 **'03?**
9 A They always worked -- they pretty much 2:45:21PM
10 always worked 4 to 12s.
11 **Q And was your tour in '03 generally on 2:45:27PM**
12 **Fridays and Saturdays?**
13 A Friday and Saturday, 9 at night until 2:45:31PM
14 5 in the morning.
15 **Q So your tours would overlap -- 2:45:34PM**
16 A Sometimes. 2:45:34PM
17 **Q -- generally? 2:45:34PM**
18 **What was Carter's tour generally in 2:45:35PM**
19 **'03?**
20 A Most of the time, I believe he worked 2:45:38PM
21 midnights from -- sorry. From midnight till
22 eight in the morning.
23 **Q So, again, you'd overlap with him? 2:45:46PM**
24 A Sure. 2:45:48PM
25 **Q Snyder, do you know what his tour 2:45:49PM**

58 (Pages 229 to 232)

Page 233

1 **GEORGE HESSE**
2 **generally was in '03?**
3 A Generally it was midnights. 2:45:52PM
4 **Q How about Nofi? 2:45:53PM**
5 A Nofi fluctuated around a little bit. 2:45:56PM
6 Sometimes it was nine at night till five in the
7 morning. Sometimes it was four to 12.
8 Sometimes it was midnights.
9 **Q So sometimes he had the same tour as 2:46:06PM**
10 **you and sometimes he overlapped?**
11 A Sometimes. 2:46:12PM
12 **Q How about Lamm? 2:46:13PM**
13 A Lamm also worked a majority of 2:46:14PM
14 midnights, midnight to eight in the morning.
15 Sometimes he worked at nine at night till five
16 in the morning.
17 **Q And Fiorillo? 2:46:23PM**
18 A Fiorillo worked some doubles, I 2:46:25PM
19 believe. He did some maybe some 4 to 12s. He
20 did some day tours. He did night tours. He was
21 on the schedule quite often.
22 MR. NOVIKOFF: And we're talking about 2:46:39PM
23 in season now.
24 MR. GOODSTADT: In season, yeah. 2:46:41PM
25

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 2:46:42PM
3 **Q How about in '04, did that change at 2:46:43PM**
4 **all?**
5 A No. 2:46:45PM
6 **Q Same thing with Gary and Rich Bosetti, 2:46:46PM**
7 **generally they worked the 4-to-12 tour?**
8 A Yeah. 2:46:49PM
9 **Q How about '05, did that change at all? 2:46:49PM**
10 A No. 2:46:52PM
11 **Q In '03, '04 and '05, you generally did 2:46:52PM**
12 **the 9 to 5?**
13 A On Fridays and Saturdays. 2:46:57PM
14 **Q Fridays and Saturdays? 2:46:59PM**
15 A Yes. 2:47:01PM
16 **Q When was the change? That was in '02? 2:47:02PM**
17 A Which change? 2:47:04PM
18 **Q I think you testified before that 2:47:06PM**
19 **Paradiso was flipped to your tours, you were**
20 **flipped to his tours due to some discipline of**
21 **his?**
22 A Yeah, it might have been 2002. I'd 2:47:16PM
23 have to go through the records and the schedules
24 to see exactly what the dates were. I don't
25 know.

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1 **GEORGE HESSE**
2 **Q You never heard that that switch was 2:47:24PM**
3 **done to discipline you?**
4 A Absolutely not. 2:47:28PM
5 MR. NOVIKOFF: Andrew, I think -- your 2:47:39PM
6 question was did he ever hear that switch --
7 MR. GOODSTADT: Did anyone tell him. 2:47:42PM
8 MR. NOVIKOFF: -- or was, in his 2:47:43PM
9 opinion, the switch?
10 MR. GOODSTADT: Well, did anyone ever 2:47:45PM
11 tell him that the switch was due to
12 discipline.
13 MR. NOVIKOFF: And I think the witness 2:47:47PM
14 answered my latter question as opposed to
15 the first question.
16 MR. GOODSTADT: Okay. 2:47:51PM
17 BY MR. GOODSTADT: 2:47:52PM
18 **Q Did you ever hear -- did anyone ever 2:47:52PM**
19 **tell you that the switch was done to discipline**
20 **you as opposed to disciplining Paradiso?**
21 A No. 2:48:02PM
22 **Q Have you ever heard that allegation 2:48:03PM**
23 **made?**
24 A No. 2:48:05PM
25 **Q And I assume that means that your 2:48:10PM**

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1 **GEORGE HESSE**
2 **opinion was the reason that you testified**
3 **before, that it was to discipline Paradiso,**
4 **correct?**
5 A Correct. 2:48:15PM
6 **Q Now, let's go back to Allison Sanchez. 2:48:22PM**
7 **She was also called Allison Chester at one**
8 **point, right?**
9 A Yes. 2:48:27PM
10 **Q Okay. So when I say Allison Sanchez, 2:48:26PM**
11 **I'm referring to the same person regardless of**
12 **what her last name is; is that fair?**
13 A Understood. 2:48:31PM
14 **Q Did you generally deal with her over 2:48:32PM**
15 **the phone, in person, E-mail, letters, or which**
16 **way is it generally?**
17 MR. NOVIKOFF: Objection to form. 2:48:40PM
18 MR. CALLAHAN: Objection to form. 2:48:42PM
19 A On the phone. 2:48:44PM
20 **Q How many times did you interact with 2:48:46PM**
21 **her in person?**
22 A Three, four times. 2:48:58PM
23 **Q Why don't we just start with the first 2:49:04PM**
24 **time. Where was it?**
25 A At her office. 2:49:08PM

59 (Pages 233 to 236)

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1 GEORGE HESSE
2 **Q Do you recall when that was, what 2:49:12PM**
3 **year?**
4 A It was probably in 2005. 2:49:16PM
5 **Q Had you ever met her prior to that 2:49:23PM**
6 **time?**
7 A No. 2:49:26PM
8 **Q Had you ever spoken to her prior to 2:49:27PM**
9 **that meeting in the office in '05?**
10 A I believe by then we had a 2:49:31PM
11 professional rapport on the phone.
12 **Q And had you ever seen her prior to 2:49:37PM**
13 **that? I know you may not have met her, but had**
14 **you ever seen her around or in passing?**
15 A No. 2:49:45PM
16 **Q So you didn't recognize her when you 2:49:45PM**
17 **first saw her in '05 in her office?**
18 MR. NOVIKOFF: Objection. 2:49:50PM
19 MR. GOODSTADT: Yeah, I shouldn't say 2:49:51PM
20 when you first saw her.
21 MR. NOVIKOFF: I mean, I would presume 2:49:54PM
22 that if he met her in her office, she has a
23 name plate saying Allison Sanchez.
24 MR. GOODSTADT: I'm talking about 2:49:59PM
25 recognizing the face.

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1 GEORGE HESSE
2 BY MR. GOODSTADT: 2:50:00PM
3 **Q Did you recognize the face when you 2:50:01PM**
4 **went into her office in 2005 as someone that you**
5 **may have seen around?**
6 A No. 2:50:06PM
7 **Q And what were you dealing with her 2:50:11PM**
8 **when you met in her office in '05?**
9 A I believe I had to go there to drop 2:50:14PM
10 off some paperwork, have some paperwork signed.
11 **Q With respect to what? 2:50:20PM**
12 A There are forms that have to be signed 2:50:21PM
13 by the -- I forget what the actual name of the
14 form is, but it's a form that gets sent to the
15 New York State registry for police officers.
16 The police officer signs it that's getting
17 hired. The supervisor of the police department
18 signs it. A representative from Civil Service
19 signs it. And I believe the oath of office,
20 which I believe at that time was Maryann Minerva
21 would have to sign that form.
22 **Q And you signed that form that you 2:50:52PM**
23 **dropped off?**
24 A Yes. 2:50:54PM
25 **Q Did you sign it as chief of police? 2:50:54PM**

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1 GEORGE HESSE
2 A At that time, no. 2:50:57PM
3 **Q Deputy chief of police? 2:50:57PM**
4 A No. 2:50:59PM
5 **Q Sergeant? 2:50:59PM**
6 A Sergeant. 2:51:00PM
7 **Q Why did you sign as opposed to 2:51:01PM**
8 **Paradiso?**
9 A Because he told me to take care of the 2:51:06PM
10 paperwork, so that's what I did.
11 **Q So at least as of 2005, Allison 2:51:13PM**
12 **Sanchez was on notice that you had the title**
13 **sergeant; is that correct?**
14 MR. CALLAHAN: Objection to form. 2:51:21PM
15 MR. NOVIKOFF: Objection. 2:51:22PM
16 MR. CONNOLLY: Objection. 2:51:23PM
17 A Am I aware if she was aware? 2:51:25PM
18 **Q You had the paperwork that you showed 2:51:27PM**
19 **her, correct?**
20 A Yeah. 2:51:29PM
21 **Q You had signed off as sergeant, 2:51:30PM**
22 **correct?**
23 A Correct. 2:51:32PM
24 **Q Had you sent any other paperwork to 2:51:32PM**
25 **her prior to that signing off as sergeant?**

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1 GEORGE HESSE
2 A I don't know if I sent anything 2:51:38PM
3 through the mail to her.
4 **Q Had you ever sent her any memos or 2:51:45PM**
5 **E-mails where you signed off as sergeant,**
6 **whether it's through the mail or not?**
7 A I may have. I don't recall. 2:51:53PM
8 **Q Did you ever send her any paperwork 2:51:55PM**
9 **that had you signed off as chief, whether it be**
10 **on the letterhead or your signature block?**
11 A I don't know. That might have been -- 2:52:03PM
12 I might have been appointed after she was gone.
13 I don't know.
14 **Q When was the second time you met with 2:52:09PM**
15 **her in person?**
16 A I believe she came to the village one 2:52:13PM
17 day.
18 **Q When was that? What year? 2:52:15PM**
19 A It might have been in 2005. 2:52:17PM
20 **Q And did she come to see you or did she 2:52:25PM**
21 **just happen to be there?**
22 MR. CALLAHAN: Objection to form. 2:52:29PM
23 A She did not come to see me, no. 2:52:30PM
24 **Q She just was visiting Ocean Beach? 2:52:32PM**
25 MR. CALLAHAN: Objection to form. 2:52:35PM

60 (Pages 237 to 240)

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1 GEORGE HESSE
2 A She was there on business. 2:52:36PM
3 Q On business? 2:52:37PM
4 A Yes. 2:52:38PM
5 Q And you met with her when she was 2:52:38PM
6 there on business?
7 A I ran into her. 2:52:42PM
8 Q Did you have any conversation with 2:52:43PM
9 her?
10 A Just there was probably -- I remember 2:52:44PM
11 there was a brief hello.
12 Q Do you recall the substance of that 2:52:48PM
13 conversation at all?
14 A Hello. 2:52:50PM
15 Q Other than for hello? 2:52:50PM
16 A No. 2:52:51PM
17 Q That was it? Where did you run into 2:52:52PM
18 her?
19 A In the village office. 2:52:54PM
20 Q Do you know what she was doing on the 2:52:57PM
21 beach, what business she was there for?
22 A I believe she was there for some other 2:53:02PM
23 Civil Service issues that required her
24 attention, and she was meeting with Mary Ann
25 Minerva.

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1 GEORGE HESSE
2 Q Do you know what the issues were? 2:53:14PM
3 A No. 2:53:15PM
4 Q So how did you know she was meeting 2:53:18PM
5 with Maryann Minerva to discuss Civil Service
6 issues?
7 A She was an employee of Civil Service, 2:53:25PM
8 she was there on business and Maryann Minerva is
9 the superintendent of the village.
10 Q Did you ask Maryann what the issues 2:53:31PM
11 were that she was there for?
12 A I don't recall. 2:53:31PM
13 Q Do you recall what month in '05 this 2:53:34PM
14 was?
15 A I don't. 2:53:36PM
16 Q Did you ask Sanchez what she was doing 2:53:37PM
17 there?
18 A I don't recall. 2:53:41PM
19 Q And sitting here today, you don't know 2:53:43PM
20 what they were discussing?
21 MR. NOVIKOFF: Objection. 2:53:47PM
22 A No. 2:53:47PM
23 Q What was the third time you dealt with 2:53:49PM
24 her face to face?
25 A I ran into her one day. 2:53:53PM

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1 GEORGE HESSE
2 Q Where was that? 2:53:56PM
3 A It was in Cherry Grove, Fire Island. 2:53:57PM
4 Q Was she there on business? 2:54:04PM
5 A No. 2:54:06PM
6 Q She was there for pleasure? 2:54:06PM
7 A Yes. 2:54:07PM
8 Q And did you speak with her at all when 2:54:08PM
9 you ran into her?
10 A Yes. 2:54:12PM
11 Q What was the substance of that 2:54:12PM
12 conversation?
13 A I don't recall. 2:54:16PM
14 Q When was the conversation? 2:54:17PM
15 A It was -- I don't have the exact date. 2:54:19PM
16 Q What year was it? 2:54:24PM
17 A It was in August of 2005, the first 2:54:27PM
18 Wednesday in August of 2005.
19 Q And what was the substance of the 2:54:51PM
20 conversation you had with her?
21 A It was purely social. 2:54:54PM
22 Q Do you recall what you discussed? 2:54:56PM
23 A No. 2:54:57PM
24 Q Do you recall anything you discussed? 2:54:58PM
25 A No. 2:54:59PM

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1 GEORGE HESSE
2 Q How long was the conversation? 2:54:59PM
3 A Half hour, 45 minutes. 2:55:04PM
4 Q Where was it? I know it was in Cherry 2:55:10PM
5 Grove, but where in Cherry Grove?
6 A It was at a bar, Ice Palace. 2:55:14PM
7 Q Were you on duty? 2:55:24PM
8 A No. 2:55:25PM
9 Q Did you have any alcoholic beverages 2:55:30PM
10 while you were there?
11 A Yes. 2:55:33PM
12 Q How many? 2:55:34PM
13 A I don't know. Four. 2:55:36PM
14 Q Did she have any alcoholic beverages? 2:55:38PM
15 A Yes. 2:55:40PM
16 Q How many? 2:55:40PM
17 A I don't know. 2:55:41PM
18 Q More than one? 2:55:43PM
19 A It's possible. 2:55:46PM
20 Q More than two? 2:55:47PM
21 A It's possible. 2:55:48PM
22 Q More than three? 2:55:48PM
23 A It's possible. 2:55:49PM
24 Q More than four? 2:55:50PM
25 A Maybe. 2:55:52PM

61 (Pages 241 to 244)

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1 GEORGE HESSE
2 **Q You don't know?** 2:55:53PM
3 A I don't know. 2:55:54PM
4 **Q Were you with anyone else?** 2:55:56PM
5 A Yes. 2:55:58PM
6 MR. CALLAHAN: Objection to form. 2:56:00PM
7 BY MR. GOODSTADT: 2:56:00PM
8 **Q Who were you with?** 2:56:01PM
9 A I was with Walter Muller. I was with 2:56:02PM
10 a Carl Muller. I don't know if anybody else
11 came with us. I think that was it.
12 **Q Is Carl Muller and Walter Muller** 2:56:16PM
13 **related?**
14 A No. 2:56:20PM
15 **Q And was she with anybody else?** 2:56:21PM
16 A Yes. 2:56:23PM
17 **Q Who was she with?** 2:56:23PM
18 A Her partner. 2:56:24PM
19 **Q Anyone else?** 2:56:28PM
20 A Not that I know of. 2:56:29PM
21 **Q Did you eat any food while you were** 2:56:30PM
22 **there?**
23 A Yes. 2:56:33PM
24 **Q And what was it, a meal?** 2:56:34PM
25 A Lunch. 2:56:37PM

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1 GEORGE HESSE
2 **Q Lunch. Who paid for that meal?** 2:56:38PM
3 A I believe the three gentlemen, all of 2:56:41PM
4 us together, we split it.
5 **Q So Allison Sanchez and her partner** 2:56:48PM
6 **didn't pay anything?**
7 A She didn't have lunch with us. 2:56:52PM
8 **Q They didn't eat with you?** 2:56:55PM
9 A No. 2:56:57PM
10 **Q And when was the fourth time that you** 2:56:57PM
11 **had a face-to-face interaction with her?**
12 A I believe I had to get some more 2:57:02PM
13 papers signed at her office, and we went to
14 lunch.
15 **Q When was that?** 2:57:18PM
16 A It was probably later in 2005. I 2:57:19PM
17 don't know the exact date.
18 **Q How long did that interaction last?** 2:57:25PM
19 A Hour and a half. 2:57:27PM
20 **Q What paperwork were you bringing?** 2:57:32PM
21 A More of those forms I stated earlier. 2:57:34PM
22 **Q Was anyone else there?** 2:57:50PM
23 A No. 2:57:51PM
24 **Q Have you ever discussed any of the** 2:57:54PM
25 **plaintiffs with Allison Sanchez --**

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1 GEORGE HESSE
2 A Yes. 2:57:59PM
3 **Q -- or anything about the plaintiffs?** 2:57:59PM
4 **When was the first time you discussed** 2:58:01PM
5 **anything about the plaintiffs with Allison**
6 **Sanchez?**
7 A March of 2006. 2:58:10PM
8 **Q Was it in person or on the phone?** 2:58:19PM
9 A Phone. 2:58:22PM
10 **Q Do you recall when in March?** 2:58:22PM
11 A No. 2:58:24PM
12 **Q Did you call her or did she call you?** 2:58:24PM
13 A Called her. 2:58:27PM
14 **Q Just to discuss the plaintiffs or to** 2:58:29PM
15 **discuss other things as well?**
16 MR. CALLAHAN: Objection to form. 2:58:34PM
17 A I don't recall. 2:58:35PM
18 **Q And tell me everything you recall from** 2:58:37PM
19 **that phone conversation with respect to the**
20 **plaintiffs.**
21 A I called her to ask advice in 2:58:41PM
22 reference to -- regarding employment with some
23 of the part-time seasonal officers, what their
24 rights were, what my rights -- what the
25 department's rights were and what the village's

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1 GEORGE HESSE
2 rights were if I were to decide to let someone
3 go.
4 **Q Did you tell her who you were deciding** 2:59:05PM
5 **to let go?**
6 A No. 2:59:08PM
7 **Q What did she tell you?** 2:59:09PM
8 A She said that she would find out. She 2:59:10PM
9 would ask her boss, and she'd get back to me.
10 **Q Did you discuss anything else with her** 2:59:20PM
11 **on that call about the plaintiffs?**
12 A No. 2:59:24PM
13 **Q How long did that call last?** 2:59:27PM
14 A I don't recall. 2:59:29PM
15 **Q Did you discuss anything else other** 2:59:30PM
16 **than what you testified to with her on that**
17 **call?**
18 A I don't recall. 2:59:34PM
19 **Q Did she ever get back to you?** 2:59:34PM
20 A Yes. 2:59:36PM
21 **Q She called you?** 2:59:37PM
22 A Yes. 2:59:38PM
23 **Q And when was that? How long after the** 2:59:38PM
24 **first call?**
25 A I don't recall. 2:59:44PM

62 (Pages 245 to 248)

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1 GEORGE HESSE
2 **Q And what did she tell you?** 2:59:44PM
3 A She -- I believe she said she spoke to 2:59:47PM
4 Stan Pelk, but she explained to me that
5 part-time and seasonal employees, employees,
6 police officers are at-will employees and that
7 we could release them at any time without cause.
8 **Q Did she tell you what she was relying** 3:00:12PM
9 **on?**
10 A Just from what she was told by her 3:00:15PM
11 boss.
12 **Q Did she cite to you any provisions of** 3:00:17PM
13 **the Civil Service law that provided that?**
14 A No. 3:00:22PM
15 **Q Did you discuss anything else with her** 3:00:24PM
16 **on that call?**
17 A I don't recall. 3:00:27PM
18 **Q Did you discuss that issue about what** 3:00:32PM
19 **your rights were with anyone other than for**
20 **Allison Sanchez in March 2006?**
21 A As far as the rights, no. 3:00:40PM
22 **Q So I guess that covers the first two** 3:00:44PM
23 **times you spoke to her about the plaintiffs.**
24 **Did you speak with her about the** 3:00:48PM
25 **plaintiffs at any time subsequent to that?**

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1 GEORGE HESSE
2 A Yes. 3:00:52PM
3 **Q When?** 3:00:53PM
4 A I believe it was April 4th or 5th. 3:00:56PM
5 I'm not exactly sure on the date. She had
6 called me to say specifically that Frank
7 Fiorillo and, I believe it was Joe Nofi and
8 Kevin Lamm had come to her office to file a
9 complaint against the Village of Ocean Beach and
10 me for, you know, terminating them, and I
11 believe they wanted to know what their rights
12 were.
13 **Q Did she tell you what they're alleging** 3:01:28PM
14 **or the underlying allegation of the complaint?**
15 A Basically she told me that they wanted 3:01:38PM
16 to know what their rights were as police
17 officers and did I have a right to do what I
18 did; and I believe when she told them that they
19 didn't have any rights, I think Frank might have
20 gotten a little ornery with her, and he started
21 spouting off other stuff about, you know,
22 uncertified, unqualified police officers working
23 in Ocean Beach. And I believe she told him,
24 don't worry about what they're doing, you don't
25 have a leg to stand on.

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1 GEORGE HESSE
2 **Q She told you that she said that?** 3:02:21PM
3 A Yes. 3:02:22PM
4 **Q And it was your understanding that she** 3:02:32PM
5 **was referring to -- when she said you don't have**
6 **a leg to stand on, it was your understanding**
7 **that she was referring to what his rights were?**
8 MR. CALLAHAN: Objection to form. 3:02:41PM
9 MR. NOVIKOFF: Yeah, objection. 3:02:42PM
10 MR. CONNOLLY: Objection. 3:02:43PM
11 A Yeah, that's what I believe. 3:02:43PM
12 **Q That was your understanding?** 3:02:44PM
13 A Yeah. 3:02:46PM
14 **Q Did she tell you anything else about** 3:02:46PM
15 **that conversation?**
16 A I don't recall. 3:02:49PM
17 **Q What did you say to her during that** 3:02:51PM
18 **conversation?**
19 A I don't recall, other than -- that's 3:03:00PM
20 it. I don't recall anything else.
21 **Q Were you in the -- were you in the** 3:03:09PM
22 **police station during this call?**
23 A I believe so. 3:03:12PM
24 **Q Was anyone else on the line at your** 3:03:18PM
25 **end?**

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1 GEORGE HESSE
2 A No, not that I'm aware of. 3:03:22PM
3 **Q Did you tell anybody, any current or** 3:03:24PM
4 **former employees of Ocean Beach, about Snyder,**
5 **Lamm -- strike that.**
6 **About Nofi, Lamm and Fiorillo's** 3:03:31PM
7 **decision to go file a complaint against you and**
8 **the beach?**
9 A Subsequent to that? 3:03:40PM
10 **Q Yeah.** 3:03:41PM
11 A You know, I don't recall. 3:03:42PM
12 **Q Did you ever discuss that with Joe** 3:03:44PM
13 **Loeffler, the fact that Sanchez alerted you to**
14 **their decision to come file a complaint against**
15 **you and the beach?**
16 MR. CALLAHAN: Objection to form. 3:03:55PM
17 A I don't recall. 3:03:56PM
18 **Q Is there anything that would refresh** 3:03:57PM
19 **your recollection as to whether you did or not?**
20 A Unless you have something, no. 3:04:01PM
21 **Q When was the next time you spoke with** 3:04:06PM
22 **Allison Sanchez about the plaintiffs, about any**
23 **of the plaintiffs?**
24 **Again, when I say "speak," I mean** 3:04:18PM
25 **communicate with her, whether it's verbally, in**

63 (Pages 249 to 252)

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1 **GEORGE HESSE**
2 **writing.**
3 A Uh-huh. 3:04:26PM
4 I don't recall. I mean, I know I've 3:04:29PM
5 spoken to her after that. I just don't know in
6 regards to what.
7 **Q Do you recall the substance of any of 3:04:35PM**
8 **those conversations?**
9 A I think later on, when there was an 3:04:41PM
10 allegation made that I was having sexual
11 relations with her, that we talked about that a
12 little bit, and I think she laughed at the fact
13 that somebody would make that allegation.
14 **Q Well, did you ever tell Ed Carter that 3:04:59PM**
15 **you took her out to lunch?**
16 A Not that I recall. 3:05:03PM
17 **Q Did you ever tell Ed Carter that you 3:05:04PM**
18 **slept with her?**
19 A Definitely not. 3:05:07PM
20 **Q Did you tell Joe Nofi that you banged 3:05:08PM**
21 **her?**
22 A Definitely not. 3:05:11PM
23 **Q Did you ever see her other than for 3:05:12PM**
24 **the -- well, strike that.**
25 **Have you ever seen her in Ocean Beach 3:05:17PM**

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1 **GEORGE HESSE**
2 **other than for the one time that she was meeting**
3 **with Minerva?**
4 A No. 3:05:22PM
5 MR. CALLAHAN: I'm going to object to 3:05:29PM
6 the form. You have testimony that's not
7 supported -- your question is not supported
8 by the testimony.
9 MR. GOODSTADT: Okay. I'm not sure 3:05:43PM
10 what that means, but okay.
11 BY MR. GOODSTADT: 3:05:47PM
12 **Q Now, we touched upon before an issue 3:05:47PM**
13 **about uncertified police officers working at the**
14 **beach.**
15 **Do you recall that? 3:05:56PM**
16 A Yes. 3:05:57PM
17 **Q Now, were there officers working at 3:06:02PM**
18 **the beach that hadn't passed the battery of**
19 **tests that you and I discussed early this**
20 **morning?**
21 A Yes. 3:06:09PM
22 **Q And who was that? Who are those 3:06:10PM**
23 **officers?**
24 A There was a Bill Walsh, Gary and 3:06:13PM
25 Richie Bosetti, Tommy Shaw, John Dyer, Pat

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1 **GEORGE HESSE**
2 Cherry. That officer, I can't think of his
3 name. There may be some others.
4 **Q You said John Dyer? 3:06:47PM**
5 A Uh-huh. 3:06:49PM
6 **Q Arnie Hardman? 3:06:57PM**
7 A Yes, Arnie Hardman. And there was 3:06:58PM
8 another one.
9 **Q John Bullis? 3:07:11PM**
10 A Yes. 3:07:15PM
11 **Q Is that who you were thinking of? 3:07:16PM**
12 A No. 3:07:19PM
13 **Q Daniel Shook? 3:07:24PM**
14 A That's him, Daniel Shook. 3:07:26PM
15 **Q And is it your understanding that if 3:07:38PM**
16 **you don't pass those battery of tests, that you**
17 **can't be a police officer in Suffolk County?**
18 MR. NOVIKOFF: Objection. 3:07:44PM
19 A Correct. 3:07:45PM
20 **Q So if you don't pass those tests, 3:07:46PM**
21 **you're a civilian, correct?**
22 MR. NOVIKOFF: Objection. I don't 3:07:50PM
23 know what you mean by "civilian."
24 MR. CONNOLLY: Objection. 3:07:52PM
25 MR. CALLAHAN: Objection. 3:07:53PM

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 3:07:54PM
3 **Q Do you know what I mean when I say 3:07:54PM**
4 **"civilian"? You've heard that word?**
5 A Yes. 3:07:57PM
6 **Q Do you know what I mean? 3:07:58PM**
7 A Yeah, I know what you mean. 3:08:00PM
8 **Q So I'll reask the question. 3:08:02PM**
9 **Is it your understanding that if you 3:08:03PM**
10 **don't pass those tests, then you are a civilian?**
11 MR. NOVIKOFF: Objection. 3:08:09PM
12 MR. CALLAHAN: Objection to form. 3:08:11PM
13 A It's a technicality, but yes. 3:08:13PM
14 **Q So those list of people we just went 3:08:17PM**
15 **over, during the time period that they were**
16 **working and being paid as police officers in**
17 **Ocean Beach, they were actually civilians,**
18 **correct?**
19 MR. NOVIKOFF: Objection. 3:08:29PM
20 MR. CALLAHAN: Objection to form. 3:08:30PM
21 MR. CONNOLLY: Objection. 3:08:31PM
22 A No. 3:08:31PM
23 **Q They weren't civilians? 3:08:32PM**
24 A No. 3:08:33PM
25 **Q So which ones weren't civilians? 3:08:33PM**

64 (Pages 253 to 256)

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1 **GEORGE HESSE**
2 A All of them were sworn in as police 3:08:37PM
3 officers.
4 **Q So it's your understanding that if 3:08:39PM**
5 **you're sworn in, that you're certified to be a**
6 **police officer?**
7 MR. NOVIKOFF: Objection. It's not 3:08:45PM
8 his testimony.
9 MR. CALLAHAN: Objection. 3:08:49PM
10 MR. CONNOLLY: Objection. 3:08:51PM
11 BY MR. GOODSTADT: 3:08:51PM
12 **Q Is that your understanding? 3:08:51PM**
13 A They were all retired police officers. 3:08:53PM
14 **Q Any of them retired from Suffolk 3:08:57PM**
15 **County police department?**
16 A None of them, no. 3:08:59PM
17 **Q So in terms of being in Suffolk 3:09:02PM**
18 **County, were they all civilians?**
19 MR. NOVIKOFF: Objection. Asked and 3:09:07PM
20 answered.
21 A It's a technicality, but, you know, 3:09:09PM
22 I'll agree with you, yes.
23 **Q Yes, they were? 3:09:13PM**
24 **When did you first learn of an issue 3:09:15PM**
25 **with respect to this group of guys' lack of**

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1 **GEORGE HESSE**
2 **certification?**
3 A I don't recall a specific date. 3:09:27PM
4 **Q Do you recall what year it was? 3:09:30PM**
5 A It was probably the end of 2004, 3:09:34PM
6 maybe.
7 **Q How did you learn about it? 3:09:44PM**
8 A I don't remember. 3:09:47PM
9 **Q So when you heard about it at the end 3:09:54PM**
10 **of 2004 -- I believe I asked this question a**
11 **while ago; I'll just put it in a time frame --**
12 **ed Paradiso was the person in Ocean Beach**
13 **responsible for making sure that everybody that**
14 **was being paid as a police officer was**
15 **certified?**
16 MR. NOVIKOFF: Objection. 3:10:11PM
17 A You know, I don't know if it was 3:10:13PM
18 really his job to make sure, but he was sure in
19 charge of hiring.
20 **Q But when before I asked you who was in 3:10:21PM**
21 **charge for making sure that the people who are**
22 **hired are certified, you said up until January**
23 **of '06, it was Paradiso, and after that it was**
24 **you.**
25 MR. NOVIKOFF: Objection. I don't 3:10:34PM

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1 **GEORGE HESSE**
2 know if that was your question. But if you
3 had asked the question already, then it's in
4 the record. So why are we fighting with
5 him?
6 MR. GOODSTADT: I just want to make 3:10:41PM
7 sure that I understood his testimony.
8 MR. NOVIKOFF: Well, ask him again. 3:10:45PM
9 I'll object, but he'll still answer.
10 BY MR. GOODSTADT: 3:10:48PM
11 **Q Is the way I characterized it your 3:10:49PM**
12 **understanding?**
13 MR. NOVIKOFF: Objection. 3:10:52PM
14 A I understand where you're coming from. 3:10:53PM
15 But I believe it's the Village of Ocean Beach,
16 Maryann Minerva who fills out the Civil Service
17 paperwork to make sure that it's accurate.
18 **Q Okay. So it's your understanding that 3:11:07PM**
19 **Miss Minerva was the person responsible for**
20 **making sure that the people who are hired and**
21 **paid as police officers were certified to be in**
22 **that position?**
23 MR. NOVIKOFF: Objection to the form, 3:11:18PM
24 more particularly to the word "responsible."
25 You're assuming that anyone was responsible

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1 **GEORGE HESSE**
2 in that period of time.
3 MR. CONNOLLY: Objection. 3:11:30PM
4 You can answer. 3:11:30PM
5 A You're going to have to repeat the 3:11:31PM
6 question. I'm sorry.
7 MR. GOODSTADT: Yeah, why don't you 3:11:38PM
8 read it back. That would be great.
9 (Whereupon, the requested portion was 3:11:41PM
10 read back by the court reporter: Okay. So
11 it's your understanding that Miss Minerva
12 was the person responsible for making sure
13 that the people who are hired and paid as
14 police officers were certified to be in that
15 position?)
16 MR. NOVIKOFF: Can we take a five 3:11:59PM
17 minute break?
18 MR. GOODSTADT: So you objected to a 3:12:06PM
19 word that wasn't even in the question.
20 MR. CONNOLLY: I thought he said 3:12:06PM
21 "responsible."
22 MR. GOODSTADT: Responsible for making 3:12:06PM
23 sure.
24 MR. NOVIKOFF: I have a problem with 3:12:09PM
25 the word "responsible" only because we

65 (Pages 257 to 260)

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1 GEORGE HESSE
 2 haven't established that anyone was
 3 responsible, because clearly there was a
 4 problem.
 5 But note my objection. You can -- 3:12:16PM
 6 A That is my belief. 3:12:19PM
 7 **Q What's the basis of that belief? 3:12:21PM**
 8 A Because all applications and paperwork 3:12:23PM
 9 is submitted to her for her approval; and
 10 because it's a municipality, they have to report
 11 to Civil Service and they have to report those
 12 names to Civil Service.
 13 **Q Does the chief of police have any 3:12:36PM**
 14 **obligation with respect to that reporting**
 15 **requirement?**
 16 MR. NOVIKOFF: Objection. 3:12:42PM
 17 A I believe he has some responsibility. 3:12:43PM
 18 **Q What is that responsibility? 3:12:46PM**
 19 A To make sure that these men, these 3:12:48PM
 20 officers are certified.
 21 MR. NOVIKOFF: Could we take that 3:12:54PM
 22 break?
 23 MR. GOODSTADT: Yep. 3:12:56PM
 24 THE VIDEOGRAPHER: The time is now 3:12:57PM
 25 3:13 p.m. We are now off the record.

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1 GEORGE HESSE
 2 (Whereupon, a discussion was held off 3:13:01PM
 3 the record.)
 4 THE VIDEOGRAPHER: The time is now 3:29:04PM
 5 3:29 p.m. We are now back on the record.
 6 BY MR. GOODSTADT: 3:29:07PM
 7 **Q Now, just to go back to the issue with 3:29:10PM**
 8 **the uncertified officers working in Ocean Beach.**
 9 **How did you learn about the fact that there was**
 10 **this problem?**
 11 A I don't remember -- I think I stated I 3:29:23PM
 12 don't remember how I found out.
 13 **Q Did you ever speak with Ms. Minerva 3:29:30PM**
 14 **about the issue?**
 15 A Yes. 3:29:34PM
 16 **Q When was the first time you spoke with 3:29:35PM**
 17 **her about this issue?**
 18 A I don't recall. 3:29:37PM
 19 **Q Do you recall what year it was? 3:29:39PM**
 20 A It may have been the end of 2004 into 3:29:41PM
 21 2005. I don't know.
 22 **Q And when were the Bosettis hired? 3:29:49PM**
 23 A I believe they came on in -- this is 3:29:52PM
 24 off the top of my head, 2003.
 25 **Q Is it possible it was 2002? 3:29:57PM**

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1 GEORGE HESSE
 2 A It's possible, yes. 3:30:00PM
 3 **Q Were you at the -- were you at the 3:30:06PM**
 4 **preseason meeting? When I say that, do you know**
 5 **what that mean when I say a preseason meeting?**
 6 A Yes. 3:30:13PM
 7 **Q Of the department? 3:30:13PM**
 8 A Yes. 3:30:14PM
 9 **Q Were you at the preseason meeting the 3:30:15PM**
 10 **first year the Bosettis were hired?**
 11 A I would say yes. 3:30:18PM
 12 **Q And did you tell the Bosettis in front 3:30:20PM**
 13 **of the group that they would have to take their**
 14 **tests?**
 15 A I don't recall. 3:30:28PM
 16 **Q Did you ever speak with Catherine 3:30:38PM**
 17 **Spies? Do you know who that is, Catherine**
 18 **Spies?**
 19 A Yes. 3:30:43PM
 20 **Q Who is she? 3:30:43PM**
 21 A She was the deputy clerk. She's not 3:30:45PM
 22 there anymore.
 23 **Q Did you ever speak with her about this 3:30:49PM**
 24 **issue?**
 25 A Yes. 3:30:51PM

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1 GEORGE HESSE
 2 **Q When was the first time you spoke with 3:30:52PM**
 3 **her about the issue?**
 4 MR. NOVIKOFF: About the issue, the 3:30:54PM
 5 certification?
 6 MR. GOODSTADT: About the 3:30:57PM
 7 certification issue, yes.
 8 A I don't recall. 3:30:58PM
 9 **Q Did you ever speak with Joe Loeffler 3:31:04PM**
 10 **about the certification issue?**
 11 A Yes. 3:31:07PM
 12 **Q When was the first time you spoke with 3:31:09PM**
 13 **him?**
 14 A I don't recall. 3:31:11PM
 15 **Q Who did you speak with first out of 3:31:13PM**
 16 **those three people, Minerva, Loeffler, Spias,**
 17 **about the issue?**
 18 A I don't recall. 3:31:23PM
 19 **Q You're sure you didn't speak with 3:31:30PM**
 20 **Minerva in December of '03 about this**
 21 **certification issue?**
 22 A Yeah. 3:31:37PM
 23 MR. NOVIKOFF: Objection to the form. 3:31:38PM
 24 A It could've been. 3:31:39PM
 25 **Q So it's possible that you knew about 3:31:40PM**

66 (Pages 261 to 264)

Page 265

1 **GEORGE HESSE**
2 **the fact that there were uncertified officers**
3 **working as early as December of '03?**
4 MR. NOVIKOFF: Objection to the form 3:31:48PM
5 of the question.
6 A Possible. 3:31:50PM
7 **Q Did you ever speak with Paradiso about** 3:31:54PM
8 **the issue?**
9 A Yes. 3:31:56PM
10 **Q When is the first time you spoke with** 3:31:57PM
11 **him about the issue?**
12 A I don't recall. 3:32:01PM
13 **Q Did you ever speak with any other** 3:32:07PM
14 **trustees other than for Loeffler about the**
15 **issue?**
16 MR. NOVIKOFF: Objection. He didn't 3:32:13PM
17 say he talked to Loeffler.
18 BY MR. GOODSTADT: 3:32:15PM
19 **Q Did you ever speak to any trustees** 3:32:16PM
20 **about the issue?**
21 MR. CONNOLLY: When they were 3:32:20PM
22 trustees?
23 MR. GOODSTADT: When they were 3:32:21PM
24 trustees, yeah.
25 A Just Trustee Loeffler, I believe. I 3:32:23PM

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1 **GEORGE HESSE**
2 don't recall if I would've talked to anybody
3 else.
4 **Q Did you ever speak to Natalie Rogers** 3:32:28PM
5 **about the issue?**
6 A You know, I don't recall. 3:32:31PM
7 **Q You don't recall one way or the other?** 3:32:32PM
8 A No. 3:32:35PM
9 **Q Was there a plan put in place to fix** 3:32:35PM
10 **the problem when you first learned of it?**
11 MR. NOVIKOFF: Objection. 3:32:42PM
12 MR. GOODSTADT: Strike that. Strike 3:32:43PM
13 that.
14 BY MR. GOODSTADT: 3:32:44PM
15 **Q Was there a plan put in place to fix** 3:32:44PM
16 **the problem?**
17 MR. NOVIKOFF: Same objection. 3:32:48PM
18 A I wouldn't say there was a plan. I 3:32:49PM
19 would say there was a suggestion to fix the
20 problem.
21 **Q Who made the suggestion?** 3:32:53PM
22 A I don't know where it came from, but 3:32:58PM
23 it filtered to me.
24 **Q How did it filter to you?** 3:33:05PM
25 A Paradiso asked me to look into the 3:33:07PM

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1 **GEORGE HESSE**
2 matter and see what I could do to correct it.
3 **Q Do you know when that conversation** 3:33:15PM
4 **occurred?**
5 A I don't recall. 3:33:17PM
6 **Q And did you do anything to correct the** 3:33:20PM
7 **matter?**
8 A Yes. 3:33:25PM
9 **Q How long after Paradiso told you that** 3:33:26PM
10 **did you do something to correct the matter?**
11 A I'm sure I started working on it right 3:33:30PM
12 away.
13 **Q And at that point in time, when** 3:33:33PM
14 **Paradiso told you to correct the matter, had you**
15 **known there was a problem or was that the first**
16 **time you learned there was a problem?**
17 A I don't recall. 3:33:41PM
18 **Q What did you do to fix the problem?** 3:33:42PM
19 A I believe I contacted Civil Service 3:33:46PM
20 and had to find out what these officers had to
21 do.
22 **Q Who at Civil Service did you speak** 3:33:53PM
23 **with -- strike that.**
24 **Did you contact Civil Service?** 3:33:57PM
25 A I may have. 3:33:58PM

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1 **GEORGE HESSE**
2 **Q Do you recall actually contacting** 3:33:59PM
3 **Civil Service?**
4 A I don't recall. 3:34:02PM
5 **Q Do you recall speaking to anyone at** 3:34:02PM
6 **Civil Service about what they had to do to**
7 **correct the problem?**
8 A At some point, I was in touch with 3:34:08PM
9 Allison Chester or Sanchez to correct the
10 problem.
11 **Q Do you recall when that was?** 3:34:16PM
12 A I don't recall. 3:34:17PM
13 **Q Do you recall how long after Paradiso** 3:34:19PM
14 **suggested that you fix the problem, the time gap**
15 **between that and the time you spoke with Sanchez**
16 **about it?**
17 A I'm not positive, no. 3:34:31PM
18 **Q Was it days, weeks, months years?** 3:34:34PM
19 A I don't recall. 3:34:37PM
20 **Q Other than for you, who else was** 3:34:39PM
21 **involved with the plan to fix the problem?**
22 A Maryann Minerva. 3:34:43PM
23 **Q Anyone else in the village involved** 3:34:49PM
24 **with the plan to fix it?**
25 MR. NOVIKOFF: Objection. 3:34:54PM

67 (Pages 265 to 268)

Page 269

1 GEORGE HESSE
2 A Kathy Spies was part of it. 3:34:55PM
3 Q Anyone else? 3:35:06PM
4 MR. NOVIKOFF: Note my objection. 3:35:10PM
5 A I don't know when Kara a McKenna 3:35:14PM
6 started, but she also involved with the Civil
7 Service stuff, so --
8 Q What was Minerva's role in the plan to 3:35:23PM
9 fix it?
10 MR. NOVIKOFF: Objection to the form. 3:35:27PM
11 A I don't know what her role was. 3:35:28PM
12 Q Do you know anything that she did to 3:35:29PM
13 help fix the problem?
14 A I don't know what she did, no. 3:35:35PM
15 Q What was Spies's role? 3:35:37PM
16 MR. NOVIKOFF: Objection. 3:35:39PM
17 A I know she was in contact with Civil 3:35:40PM
18 Service. I know there were some forms that
19 needed to be filled out.
20 Q How do you know she was contact with 3:35:45PM
21 Civil Service?
22 A She told me. 3:35:49PM
23 Q Do you recall when she told you, what 3:35:55PM
24 year it was?
25 A I don't recall. 3:35:57PM

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1 GEORGE HESSE
2 Q Did she fill out the forms? 3:35:59PM
3 MR. NOVIKOFF: Objection. 3:36:04PM
4 A I believe she typed and hand writ some 3:36:04PM
5 of them. I don't know if she signs off on them
6 or Maryann Minerva signs off on them.
7 Q How long did the process take from the 3:36:20PM
8 time that you learned of the problem to the time
9 that -- well, strike that.
10 Was the problem ever rectified? 3:36:25PM
11 A Yes. 3:36:27PM
12 Q How was it rectified? What was done? 3:36:28PM
13 A All our officers are now certified by 3:36:31PM
14 Civil Service.
15 Q And the ones who weren't certified 3:36:35PM
16 stepped down or were fired or --
17 A Yes. 3:36:39PM
18 Q -- took different positions; is that 3:36:40PM
19 what happened?
20 A Yes. 3:36:42PM
21 Q Okay. How long between the time that 3:36:42PM
22 you learned of the problem until rectifying the
23 problem?
24 A It may have taken a year and a half, 3:36:52PM
25 almost two years to correct.

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1 GEORGE HESSE
2 Q And during that period of a year and a 3:37:04PM
3 half to two years, these people who were not
4 certified were still being paid as police
5 officers or did you suspend them for that
6 period?
7 MR. NOVIKOFF: Objection again to the 3:37:16PM
8 form.
9 When you say "you," are you saying 3:37:17PM
10 Hesse or the village?
11 MR. GOODSTADT: Good question. 3:37:21PM
12 MR. NOVIKOFF: Because Hesse has said 3:37:22PM
13 at the time that he had no authority to hire
14 or fire.
15 BY MR. GOODSTADT: 3:37:27PM
16 Q Were these people employed by the 3:37:28PM
17 village as police officers and paid by the
18 village as police officers during that period?
19 A Yes. 3:37:32PM
20 Q Do you know whether anyone alerted 3:37:35PM
21 Civil Service to that fact?
22 MR. NOVIKOFF: Objection. 3:37:44PM
23 A I don't know. 3:37:45PM
24 Q When was Arnold Hardman certified? 3:37:55PM
25 A He never completed certification. 3:37:58PM

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1 GEORGE HESSE
2 Q And when was he employed up until as a 3:38:09PM
3 police officer?
4 A I don't know the exact date when he 3:38:18PM
5 was no longer employed. I don't know the exact
6 date.
7 Q Do you know what year it was? 3:38:24PM
8 A It may -- I'm just guessing, but -- 3:38:26PM
9 no, I don't recall. I don't recall.
10 Q Did he work at all in the season of 3:38:31PM
11 2006?
12 A Yes. 3:38:35PM
13 Q Okay. So he was still working at the 3:38:36PM
14 beach as an uncertified police officer after the
15 plaintiffs in this case were let go?
16 A Yes. 3:38:45PM
17 Q And at that point in time, did you 3:38:47PM
18 know that he was not certified?
19 A Yes. 3:38:51PM
20 Q So the problem actually wasn't fully 3:38:58PM
21 rectified in the year and a half to two years,
22 correct?
23 MR. NOVIKOFF: Objection to form. 3:39:03PM
24 MR. CALLAHAN: Objection to the form. 3:39:06PM
25 A It depends on when we started it. 3:39:07PM

68 (Pages 269 to 272)

Page 273

1 GEORGE HESSE
 2 MR. NOVIKOFF: Exactly. 3:39:09PM
 3 A But I don't know exactly what the 3:39:10PM
 4 start date was, but I think it took somewhere in
 5 the range of a year and a half to two years to
 6 rectify it.
 7 **Q Why did you let Arnold Hardman go if 3:39:19PM**
 8 **he wasn't certified --**
 9 MR. NOVIKOFF: Prior objection. 3:39:25PM
 10 BY MR. GOODSTADT: 3:39:26PM
 11 **Q -- prior to the season of 2006? 3:39:26PM**
 12 MR. NOVIKOFF: Now objection to 3:39:30PM
 13 foundation because he testified that he had
 14 no hiring or firing authority until he was
 15 appointed deputy chief.
 16 MR. GOODSTADT: Which was January of 3:39:36PM
 17 '06. Now I'm talking about April '06.
 18 MR. NOVIKOFF: No. I think you 3:39:39PM
 19 mentioned before the season.
 20 MR. GOODSTADT: Yeah. 3:39:44PM
 21 MR. NOVIKOFF: Okay, I understand. 3:39:44PM
 22 Okay, you're right.
 23 MR. GOODSTADT: The decision was made 3:39:45PM
 24 after he was deputy chief.
 25 MR. NOVIKOFF: You're right. You're 3:39:47PM

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1 GEORGE HESSE
 2 right.
 3 MR. CONNOLLY: I'm just going to ask 3:39:48PM
 4 that we read the question back now.
 5 MR. GOODSTADT: Okay. 3:39:51PM
 6 MR. CONNOLLY: Or you can repeat it. 3:39:51PM
 7 MR. GOODSTADT: It's been so long ago, 3:39:51PM
 8 I'm not even sure what the question was.
 9 BY MR. GOODSTADT: 3:40:04PM
 10 **Q So why didn't you let Arnold Hardman 3:40:05PM**
 11 **go at the same time that you let the plaintiffs**
 12 **go if you knew that he was not certified?**
 13 MR. NOVIKOFF: Objection, only to the 3:40:14PM
 14 extent that we have the same stipulation.
 15 MR. GOODSTADT: We do. 3:40:18PM
 16 MR. NOVIKOFF: You say let go, we say 3:40:19PM
 17 not rehired.
 18 MR. GOODSTADT: It's also the word 3:40:23PM
 19 that he used in the memo.
 20 MR. NOVIKOFF: That's different, 3:40:26PM
 21 Andrew.
 22 A Ready? 3:40:28PM
 23 **Q Yes. 3:40:29PM**
 24 A He was in the process of completing 3:40:30PM
 25 his battery of tests. He had one test to go,

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1 GEORGE HESSE
 2 which would be the polygraph; and for unknown
 3 circumstances, polygraph would not let him take
 4 the test.
 5 **Q What do you mean by that? 3:40:46PM**
 6 A We feel there was some interference 3:40:50PM
 7 from the D.A.'s office, and they didn't permit
 8 him to take the polygraph test.
 9 **Q When did he apply to take the 3:41:02PM**
 10 **polygraph test, if you know?**
 11 A I don't know the exact date, but we 3:41:08PM
 12 had three tentative dates set up. We went to
 13 two of them and we were turned away.
 14 **Q What's the basis of your belief that 3:41:22PM**
 15 **the D.A. interfered?**
 16 A They wouldn't give us a reason why 3:41:25PM
 17 they wouldn't let him take the test, and we were
 18 under investigation at that point.
 19 **Q So what leads you to the conclusion 3:41:31PM**
 20 **that the D.A. actually interfered with the**
 21 **ability of Mr. Hardman to take the test?**
 22 A Because that's my feeling. 3:41:38PM
 23 **Q Do you recall when he was scheduled, 3:41:41PM**
 24 **what year it was he was scheduled to go take the**
 25 **test?**

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1 GEORGE HESSE
 2 A I don't know the exact dates. No. 3:41:46PM
 3 **Q Do you recall what year it was? 3:41:52PM**
 4 A 2006. 3:41:53PM
 5 **Q 2006? 3:41:54PM**
 6 A Yeah. 3:41:54PM
 7 **Q Did he apply to take the test -- well, 3:42:01PM**
 8 **strike that.**
 9 **When was he hired? 3:42:04PM**
 10 A 2003, 2004 possibly. 3:42:06PM
 11 **Q And when in 2006, was it before the 3:42:15PM**
 12 **season or after the season that he applied?**
 13 A Actually, I'm mistaken on the dates. 3:42:19PM
 14 There was -- there was an opportunity for him to
 15 take it in 2005; but then I think he couldn't
 16 make that date, so I rescheduled someone else to
 17 take it on that date. And he may have been
 18 rescheduled at a later date. I don't know the
 19 exact date.
 20 **Q So he failed to appear in '05? 3:42:37PM**
 21 A I wouldn't say he failed to appear. 3:42:40PM
 22 It was a reschedule.
 23 **Q And what date in '06 was he 3:42:47PM**
 24 **rescheduled for? Was it before the season or**
 25 **after the season?**

69 (Pages 273 to 276)

Page 277

1 **GEORGE HESSE**
2 A It was in the heart of the season. I 3:42:53PM
3 believe it might have been in the latter of
4 July, you know, one of the scheduled dates.
5 That might have been one of the last time that
6 we even tried.
7 **Q How often does the county administer 3:43:06PM**
8 **polygraph tests?**
9 MR. NOVIKOFF: Objection. 3:43:11PM
10 BY MR. GOODSTADT: 3:43:11PM
11 **Q Back then, in '05. 3:43:12PM**
12 MR. NOVIKOFF: Same objection. 3:43:13PM
13 A It's by appointment. 3:43:14PM
14 **Q Do they administer it all year round? 3:43:16PM**
15 MR. NOVIKOFF: Objection. 3:43:19PM
16 A Yes. 3:43:20PM
17 **Q So you can call and get on the 3:43:20PM**
18 **schedule any time of the year?**
19 MR. NOVIKOFF: Objection. 3:43:24PM
20 BY MR. GOODSTADT: 3:43:25PM
21 **Q Or fill out a form and schedule any 3:43:27PM**
22 **time of the year?**
23 MR. NOVIKOFF: Objection. 3:43:31PM
24 A I'm sure they could perform the test 3:43:32PM
25 at any time of the year. It depends on their

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1 **GEORGE HESSE**
2 availability.
3 **Q Did you -- when you say that you -- 3:43:39PM**
4 **strike that.**
5 **Did you actually call and reschedule 3:43:42PM**
6 **someone in for Hardman's spot that he couldn't**
7 **make?**
8 A Yes. 3:43:49PM
9 **Q Did you at that time ask to have him 3:43:49PM**
10 **rescheduled?**
11 A I don't know if I did or not. 3:43:53PM
12 **Q Do you know when the first time 3:43:54PM**
13 **somebody reached out to the county to reschedule**
14 **him after he didn't appear in the '05 test?**
15 A Repeat that. 3:44:02PM
16 MR. GOODSTADT: Could you read that 3:44:04PM
17 back.
18 (Whereupon, the requested portion was 3:44:05PM
19 read back by the court reporter: Do you
20 know when the first time somebody reached
21 out to the county to reschedule him after he
22 didn't appear in the '05 test?)
23 A Read that one more time, I'm sorry. 3:44:19PM
24 **Q I'll reask it. 3:44:21PM**
25 **Do you know when the first time either 3:44:22PM**

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1 **GEORGE HESSE**
2 **he or someone on his behalf reached out to the**
3 **county to reschedule the test after he didn't**
4 **appear in '05?**
5 A I don't know. I would've been the 3:44:31PM
6 only one that would have rescheduled his test,
7 so I don't recall.
8 **Q Do you have anything that would 3:44:38PM**
9 **refresh your recollection? Take any notes of**
10 **these calls?**
11 A Not that I recall. 3:44:42PM
12 **Q How did you alert the officers when 3:44:43PM**
13 **their scheduled dates were coming up?**
14 A Just by cell phone -- by telephone. 3:44:48PM
15 **Q So you would call them? 3:44:50PM**
16 A Yeah. 3:44:52PM
17 **Q Did you ever do anything in writing, 3:44:52PM**
18 **either by E-mail or a memo or a letter?**
19 A Sometimes I would write it right on 3:44:55PM
20 the front of their application pack. Maybe I'd
21 just write it down on a note.
22 **Q Do you know whether you wrote anything 3:45:02PM**
23 **down with respect to Hardman?**
24 A I may have wrote something on the face 3:45:05PM
25 of his application, but I did that sometimes. I

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1 **GEORGE HESSE**
2 didn't do it all the time. I don't know.
3 **Q When you say "application," that was 3:45:13PM**
4 **the applicant investigation section that you**
5 **were running at the time?**
6 A Yes. 3:45:17PM
7 **Q Okay. Who replaced Hardman in the '05 3:45:18PM**
8 **spot?**
9 A I believe it was Greg Kephlian. 3:45:24PM
10 K-E-G-H-L-I-A-N, Kephlian.
11 **Q Was Kephlian a new hire in '05 or had 3:45:33PM**
12 **he been a person who had been working there not**
13 **certified?**
14 A He wasn't a new hire in '05. He 3:45:43PM
15 started in, I believe, '06. But I might have
16 given his spot to Kephlian or it might have been
17 Bill Embry. It might have even been Joe
18 Dediminico. I'm not real sure.
19 **Q Other than for -- well, strike that. 3:46:05PM**
20 **Which people who served as police 3:46:09PM**
21 **officers that were uncertified eventually did**
22 **not pass the test to become certified? You**
23 **testified Hardman. I think you testified Cherry**
24 **decided that he would drop down because he**
25 **didn't want to take the test. Who else**

70 (Pages 277 to 280)

Page 281

1 **GEORGE HESSE**
2 **eventually did not become certified?**
3 A Danny Shook, John Dyer. Bill Walsh, 3:46:28PM
4 he was never scheduled to do anything. He just
5 went on to work at the D.A.'s office in Nassau.
6 I said John Dyer? Did I say him? 3:46:46PM
7 **Q You did. 3:46:49PM**
8 A Bullis decided not to take the battery 3:46:51PM
9 of tests. He stepped down. I'm not sure who
10 else.
11 **Q What happened to Dyer? Did he step 3:47:00PM**
12 **down or was he fired?**
13 A I let him go. 3:47:03PM
14 **Q When did that happen? 3:47:04PM**
15 A In 2006. 3:47:12PM
16 **Q When did you let him go in 2006? 3:47:15PM**
17 A Because he failed the polygraph. 3:47:17PM
18 **Q When did you let him go? 3:47:19PM**
19 A Well, he didn't work the whole winter 3:47:23PM
20 of '05 in through '06. So I think officially
21 might have been April 4th by memo to the village
22 office.
23 **Q If he failed the polygraph, would he 3:47:44PM**
24 **have the opportunity to take it again?**
25 A Yes. 3:47:49PM

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1 **GEORGE HESSE**
2 **Q And he elected not to or you 3:47:49PM**
3 **terminated him just because he failed it?**
4 A He pretty much elected not to do it 3:47:52PM
5 again.
6 **Q How about Dan Shook, did he step down, 3:47:55PM**
7 **did you let him go or did something else happen**
8 **with him?**
9 A He -- he moved -- well, he took a 3:48:03PM
10 different position within the police department.
11 **Q What position did he take? 3:48:07PM**
12 A Dispatcher. 3:48:08PM
13 **Q How about Walsh? Was he the one who 3:48:08PM**
14 **moved to the D.A.?**
15 A Yes. 3:48:12PM
16 **Q How about Bullis? 3:48:12PM**
17 A Dispatcher. 3:48:14PM
18 **Q Did you get a copy of the 3:48:27PM**
19 **pre-polygraph questionnaire for your officers**
20 **prior to them taking the polygraph?**
21 A The pre-polygraph questionnaire is 3:48:34PM
22 part of the original packet.
23 **Q It's part of the packet? How did you 3:48:38PM**
24 **get the pre-polygraph questionnaire?**
25 A That was part of -- when I was 3:48:43PM

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1 **GEORGE HESSE**
2 arranging this application, I found it online
3 for another job. I don't remember what the
4 other job was.
5 **Q Eddie Carter didn't get you a copy of 3:48:50PM**
6 **that from somebody in Quogue?**
7 A That? You know what, I don't know. I 3:48:55PM
8 think I got it online.
9 **Q Did you ever allow any of the 3:49:03PM**
10 **uncertified officers to review the polygraph**
11 **questionnaire from Frank Fiorillo's personnel**
12 **jacket?**
13 A No. 3:49:13PM
14 **Q Are the police officer personnel 3:49:16PM**
15 **jackets kept in the station?**
16 A Yes. 3:49:20PM
17 **Q Where in the station? 3:49:20PM**
18 A Now they're kept in a locked filing 3:49:21PM
19 cabinet.
20 **Q How about in '05? 3:49:24PM**
21 A In '05, they were kept in a filing 3:49:26PM
22 cabinet.
23 **Q Unlocked? 3:49:29PM**
24 A Unlocked. 3:49:29PM
25 **Q Did Allen Loeffler pass all tests that 3:49:41PM**

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1 **GEORGE HESSE**
2 **are required to be a police officer?**
3 A He's been a cop since 1973. I would 3:49:45PM
4 assume so.
5 **Q Do you know whether he took the basic 3:49:49PM**
6 **course for police officers?**
7 A Yes, he did. 3:49:52PM
8 **Q Do you know whether anyone looked in 3:50:03PM**
9 **Frank's jacket to look at the polygraph**
10 **questions?**
11 A Not that I recall. 3:50:09PM
12 (Whereupon, Bates document 5773 was 3:50:16PM
13 marked as Plaintiff's Exhibit 6 for
14 identification, as of this date.)
15 MR. NOVIKOFF: Hesse 6? 3:50:46PM
16 MR. GOODSTADT: Hesse 6. 3:50:48PM
17 I've placed in front of Mr. Hesse 3:50:56PM
18 what's been marked as Hesse 6. It's a
19 one-page document bearing Bates No. 5773.
20 (Handing.)
21 BY MR. GOODSTADT: 3:51:05PM
22 **Q Mr. Hesse, have you ever seen this 3:51:05PM**
23 **document?**
24 A I may have. 3:51:07PM
25 **Q You see in the second paragraph -- and 3:51:08PM**

71 (Pages 281 to 284)

Page 285

1 **GEORGE HESSE**
2 **this is a letter from the State of New York,**
3 **Division of Criminal Justice Services. Second**
4 **paragraph, it says, "We've conducted a search of**
5 **our registry" records -- "registry and training**
6 **records, finding that Police Officer Allen**
7 **Loeffler, who is registered as a police officer**
8 **with the Ocean Beach Village Police Department,**
9 **has not successfully completed the basic course**
10 **for police officers."**
11 **Do you see that? 3:51:32PM**
12 A Yes. 3:51:33PM
13 **Q Do you know what that refers to? 3:51:34PM**
14 A It's stating that they say that he 3:51:35PM
15 never completed the police academy.
16 **Q Do you know whether this was ever 3:51:42PM**
17 **resolved one way or the other?**
18 MR. NOVIKOFF: Objection. You haven't 3:51:46PM
19 asked him yet whether or not he was ever
20 aware of this since it was sent. It went to
21 Paradiso.
22 BY MR. GOODSTADT: 3:51:51PM
23 **Q Well, have you ever heard of that 3:51:52PM**
24 **issue?**
25 A Yes. 3:51:53PM

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1 **GEORGE HESSE**
2 MR. NOVIKOFF: Okay. 3:51:54PM
3 BY MR. GOODSTADT: 3:51:55PM
4 **Q When did you hear of it? 3:51:55PM**
5 A I don't recall. 3:51:56PM
6 **Q It was not in connection with this 3:51:58PM**
7 **case, right?**
8 MR. NOVIKOFF: Objection. Form. 3:52:01PM
9 A No. 3:52:02PM
10 **Q So you learned about it before this 3:52:03PM**
11 **case?**
12 A Yes. 3:52:05PM
13 **Q Okay. Do you know whether this issue 3:52:05PM**
14 **was ever resolved one way or the other?**
15 A I believe there was an attempt to 3:52:10PM
16 resolve it; but in my recollection, it has never
17 been resolved.
18 **Q Do you know whether -- well, strike 3:52:21PM**
19 **that.**
20 **When did Loeffler stop working for the 3:52:24PM**
21 **beach?**
22 A Off the top of my head, I don't know 3:52:26PM
23 what year.
24 **Q He stop working because of this issue? 3:52:30PM**
25 MR. NOVIKOFF: Objection. 3:52:32PM

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1 **GEORGE HESSE**
2 A I'm not sure. 3:52:32PM
3 **Q What was the attempt that was made to 3:52:41PM**
4 **resolve the issue?**
5 MR. NOVIKOFF: Objection. Foundation. 3:52:44PM
6 Go ahead. 3:52:45PM
7 MR. CONNOLLY: Objection. 3:52:47PM
8 You can answer. 3:52:48PM
9 A Okay. I actually called the police 3:52:49PM
10 academy -- academy to see if they could pull
11 some records from back then, 1973; and out of
12 all the class files, they could not the class
13 that he was in.
14 **Q Uh-huh. So to this day, do you know 3:53:07PM**
15 **whether there's ever been any confirmation,**
16 **official confirmation that he graduated the**
17 **academy?**
18 A None that I've received. 3:53:17PM
19 **Q Did you ever discuss with Allen 3:53:41PM**
20 **Loeffler why he stopped working as a police**
21 **officer in Ocean Beach?**
22 A I don't recall. 3:53:49PM
23 **Q How many years did he work on the 3:53:51PM**
24 **Ocean Beach force?**
25 A I'd like to say on and off since 1970. 3:53:59PM

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1 **GEORGE HESSE**
2 **Q If he did not pass the academy or 3:54:02PM**
3 **graduate the academy, do you know whether that**
4 **would be a violation of New York State Civil**
5 **Service law?**
6 MR. NOVIKOFF: Objection. 3:54:17PM
7 MR. CALLAHAN: Objection. 3:54:18PM
8 MR. CONNOLLY: Objection. 3:54:19PM
9 A I have no idea. 3:54:19PM
10 MR. GOODSTADT: Please mark that. 3:54:26PM
11 (Whereupon, Bates document 5769 was 3:54:27PM
12 marked as Plaintiff's Exhibit 7 for
13 identification, as of this date.)
14 MR. GOODSTADT: I've placed in front 3:54:52PM
15 of Mr. Hesse what's been marked as Hesse 7.
16 It's a one-page exhibit bearing Bates
17 No. 5769. (Handing.)
18 BY MR. GOODSTADT: 3:55:00PM
19 **Q Mr. Hesse, have you ever seen this 3:55:01PM**
20 **letter from the Suffolk County Department of**
21 **Civil Service?**
22 A I may have. 3:55:09PM
23 **Q And do you see on the second paragraph 3:55:16PM**
24 **where it says, "Unless we receive notification**
25 **that Mr. Loeffler has satisfied the criteria for**

72 (Pages 285 to 288)

Page 289

1 **GEORGE HESSE**
2 **police officer certification, our records would**
3 **indicate that his appointment was disapproved.**
4 **Continued employment would be a violation of New**
5 **York State Civil Service law."**
6 **Do you see that?** 3:55:34PM
7 A Yes. 3:55:36PM
8 MR. NOVIKOFF: Are you going to read 3:55:37PM
9 the next sentence?
10 BY MR. GOODSTADT: 3:55:39PM
11 **Q "It is our understanding that 3:55:39PM**
12 **Mr. Loeffler is no longer employed by the**
13 **village, but that his termination has not been**
14 **reported to us."**
15 MR. NOVIKOFF: Okay. Thank you. 3:55:46PM
16 BY MR. GOODSTADT: 3:55:47PM
17 **Q The question is: Does this refresh 3:55:48PM**
18 **your recollection as to whether it would be a**
19 **Civil Service violation if he had worked there**
20 **without passing or without graduating the**
21 **academy?**
22 MR. NOVIKOFF: I'm going to object to 3:55:57PM
23 the question as to form, and the basis for
24 my objection is he didn't say he doesn't
25 recall. He says I have no clue. So I'm

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1 **GEORGE HESSE**
2 **objecting to the form of the question.**
3 MR. CONNOLLY: Similar objection. 3:56:07PM
4 Please answer the question. 3:56:10PM
5 A I wouldn't know. 3:56:11PM
6 **Q Do you know how this certification 3:56:29PM**
7 **issue was brought to the Civil Service**
8 **attention?**
9 MR. NOVIKOFF: Objection to form. No 3:56:36PM
10 foundation.
11 MR. CALLAHAN: Same. 3:56:39PM
12 A On Allen Loeffler specifically? 3:56:41PM
13 **Q No, just generally, that there were 3:56:44PM**
14 **people at Ocean Beach working as police officers**
15 **who were not certified.**
16 MR. NOVIKOFF: Same objection. 3:56:50PM
17 A I have an idea, yes. 3:56:51PM
18 **Q And what's your idea?** 3:56:52PM
19 A There was an issue with -- we picked 3:56:55PM
20 up a couple of police officers that once worked
21 for the state park police as part-time seasonal
22 police officers. It should be seasonal. They
23 were strictly seasonal. And the New York State
24 park police decided to do away with their
25 part-time seasonal program, and a bunch of those

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1 **GEORGE HESSE**
2 seasonal part-time, whatever you want to call
3 them, were let go. They all were seeking other
4 part-time seasonal police jobs. And I believe
5 we hired two of them. And from what I recall
6 was that because Ocean Beach just employed them
7 and put them on, that other villages that came
8 in contact with these officers had made a gripe
9 that we, Ocean Beach, just employed these guys
10 without having to go through a battery of Civil
11 Service tests, and they protested it. So I
12 believe someone contacted Civil Service and
13 said, well, if Ocean Beach doesn't do it, why do
14 we have to do it.
15 **Q So you believe it was another village 3:58:15PM**
16 **police department?**
17 A I believe so, yes. 3:58:19PM
18 **Q Did you ever hear anyone allege that 3:58:20PM**
19 **it was Tommy Snyder who tipped off Civil Service**
20 **to that problem?**
21 A I've heard allegations of such, but 3:58:27PM
22 not about Tom Snyder.
23 **Q Who did you hear allegations about 3:58:31PM**
24 **that tipped off Civil Service?**
25 A Eddie Carter. 3:58:35PM

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1 **GEORGE HESSE**
2 **Q Who told you that Ed Carter tipped off 3:58:44PM**
3 **Civil Service?**
4 A I don't recall. 3:58:47PM
5 **Q You don't recall who -- strike that. 3:58:48PM**
6 **Where were you when you learned about 3:58:51PM**
7 **that?**
8 A I don't recall. 3:58:53PM
9 **Q Was it people on the department who 3:58:54PM**
10 **mentioned that to you?**
11 A It may have been, yes. 3:58:57PM
12 **Q Did you ever discuss that issue with 3:59:00PM**
13 **the Bosettis?**
14 MR. NOVIKOFF: What issue? 3:59:02PM
15 MR. GOODSTADT: That Ed Carter tipped 3:59:03PM
16 off Civil Service, the claim that Ed Carter
17 tipped off the Civil Service to the fact
18 that there were uncertified officers working
19 there.
20 MR. NOVIKOFF: I object to the form. 3:59:14PM
21 A There were protests made by other 3:59:15PM
22 part-time seasonal police officers to that fact,
23 but I let it be known where I actually heard it
24 from.
25 **Q Who issued or lodged these protests? 3:59:22PM**

73 (Pages 289 to 292)

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1 **GEORGE HESSE**
2 A Gary Bosetti, Ty Bacon. I don't 3:59:28PM
3 recall if anybody else ever really protested it.
4 **Q Did you ever hear either Bosetti or 3:59:37PM**
5 **Bacon refer to Ed Carter as a rat?**
6 A I don't recall. 3:59:44PM
7 **Q Did you ever hear them refer to Ed 3:59:45PM**
8 **Carter as a Civil Service rat?**
9 A I don't recall. 3:59:49PM
10 **Q Did you ever hear them, either of 3:59:50PM**
11 **them, refer to any of the plaintiffs as a rat?**
12 A I don't recall. 3:59:54PM
13 **Q Did you ever hear them refer to any of 3:59:55PM**
14 **the plaintiffs as a Civil Service rat?**
15 A I really don't recall. 4:00:01PM
16 **Q Did you ever hear anyone refer to the 4:00:03PM**
17 **plaintiffs or any of the plaintiffs as a rat?**
18 A I don't recall. 4:00:07PM
19 **Q Did you ever hear anyone refer to any 4:00:07PM**
20 **of the plaintiffs as a Civil Service rat?**
21 A I don't recall. 4:00:12PM
22 **Q Do you have anything that would 4:00:12PM**
23 **refresh your recollection?**
24 A No. 4:00:15PM
25 **Q Did you ever refer to any of the 4:00:15PM**

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1 **GEORGE HESSE**
2 **plaintiffs as a rat?**
3 A Yes. 4:00:22PM
4 **Q Which plaintiffs did you refer to as a 4:00:22PM**
5 **rat?**
6 A Frank Fiorillo. 4:00:25PM
7 **Q When did you refer to him as a rat? 4:00:28PM**
8 A I believe it was on a blog. 4:00:30PM
9 **Q So you posted on the blog referring to 4:00:38PM**
10 **Frank Fiorillo as a rat?**
11 A Yes. 4:00:41PM
12 **Q Which blog? 4:00:42PM**
13 A The Schwartz report, 4:00:43PM
14 LongIslandpolitics.com.
15 **Q What name did you post under? 4:00:49PM**
16 A For that entry, I don't know. 4:00:54PM
17 **Q How many times did you post on the 4:00:56PM**
18 **Schwartz report?**
19 A Oh God, 25, 30 times, maybe. 4:01:01PM
20 **Q Under what names have you posted 4:01:05PM**
21 **under?**
22 A Still Employed was one. Maybe Still 4:01:15PM
23 Employed 2. Dirty, Dirty 1, with the number
24 one, and maybe some other variations of that.
25 Others, I don't recall.

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1 **GEORGE HESSE**
2 **Q Do you have a list anywhere of names 4:01:34PM**
3 **that you posted under?**
4 A I don't currently have a list, no. 4:01:38PM
5 **Q Did you ever have a list? 4:01:40PM**
6 A Just what was on the blog. 4:01:41PM
7 **Q And what -- where did you post these 4:01:43PM**
8 **25 to 30 -- I know you posted them on the**
9 **Schwartz report. But where physically were you**
10 **when you were posting these 25 to 30 posts?**
11 A From my house. 4:01:53PM
12 **Q Did you ever post from the Ocean Beach 4:01:54PM**
13 **Police Department?**
14 A A couple. 4:01:57PM
15 **Q How many times did you post from the 4:02:02PM**
16 **police department?**
17 A I don't recall. 4:02:05PM
18 **Q Which house did you post from? 4:02:06PM**
19 A 191 The Helm. 4:02:08PM
20 **Q Are you aware of any other current or 4:02:17PM**
21 **former Ocean Beach police officers who post on**
22 **the blog?**
23 A Nobody that's openly admitted to me, 4:02:25PM
24 no.
25 **Q Did you ever see anyone post on the 4:02:29PM**

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1 **GEORGE HESSE**
2 **blog in the police station, other than for**
3 **yourself?**
4 A No. 4:02:34PM
5 MR. GOODSTADT: Tape's over. 4:02:37PM
6 THE VIDEOGRAPHER: Yeah. The time is 4:02:39PM
7 now 4:02 p.m. We are now off the record.
8 (Whereupon, a discussion was held off 4:02:59PM
9 the record.)
10 MR. GOODSTADT: Back on the record. 4:04:20PM
11 Well, due to a scheduling problem, 4:04:25PM
12 we've decided to break for the day, but
13 Mr. Connolly has agreed to bring his client
14 back for an additional day, not a full day,
15 on another occasion to complete the
16 deposition. I still have two hours and 35
17 minutes under the federal rules. We plan to
18 make a motion to the court, unless we can
19 agree to some additional time prior to that.
20 MR. CONNOLLY: That is my 4:04:49PM
21 understanding.
22 MR. GOODSTADT: I also want to put on 4:04:50PM
23 the record, to the extent that Mr. Hesse has
24 not reviewed his E-mail accounts, which I
25 think he was required to do under the

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GEORGE HESSE

discovery in his personal and professional capacities, just to make sure nothing gets destroyed, everything is preserved from here on in his E-mails.

MR. CONNOLLY: That will be taken 4:05:12PM under advisement. I'll look into that.

MR. GOODSTADT: Great. 4:05:15PM

MR. NOVIKOFF: And so we're clear with 4:05:17PM regard to Mr. Hesse, we are coming back on the 16th to complete his deposition, at least complete the deposition of plaintiffs of Mr. Hesse up to seven hours, unless before that date the court grants more time or there's an agreement. And in addition, certainly the village will have its opportunity on the 16th or a date thereafter to continue, and I presume the county as well.

MR. GOODSTADT: And his own lawyer, 4:05:49PM for that matter.

(Continued on the next page to include 4:05:53PM jurat.)

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GEORGE HESSE

MR. NOVIKOFF: And his own lawyer, for 4:05:53PM that matter.

MR. GOODSTADT: I have no objections 4:05:53PM to any of that.

(Time noted 4:05 p.m.) 4:05:55PM

GEORGE HESSE

Subscribed and sworn to before me
this day of , 2009

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PROCEEDINGS CERTIFICATE

I, JUDI JOHNSON, RPR, CRR, CLR, a Notary Public and for the State of New York, do hereby certify:

THAT the witness whose testimony is hereinbefore set forth, was duly sworn by me; and

THAT the within transcript is a true record of the testimony given by said witness. I further certify that I am not related, either by blood or marriage, to any of the parties to this action; and THAT I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June, 2009.

JUDI JOHNSON, RPR, CRR, CLR

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PROCEEDINGS INDEX

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By Mr. Goodstadt	7

INDEX OF HESSE EXHIBITS

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Exhibit 1	Bates document 3856	122
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Exhibit 6	Bates document 5773	284
Exhibit 7	Bates document 5769	288

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ERRATA SHEET

NAME OF CASE: CARTER V. OCEAN BEACH

DATE OF DEPOSITION: June 3, 2009

NAME OF WITNESS: GEORGE HESSE

Reason codes:

1. To clarify the record.

2. To conform to the facts

3. To correct the transcription

errors.

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

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From _____ to _____

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 GEORGE HESSE

<p style="text-align: right;">Page 302</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>----- X EDWARD CARTER, FRANK FIORILO,) KEVIN LAMM, JOSEPH NOFI, and) THOMAS SNYDER,)) Plaintiffs,)) -against-))) Index No.) CV 07 1215) INCORPORATED VILLAGE OF OCEAN) BEACH; MAYOR JOSEPH C.) LOEFFLER, JR., individually) and in his Official capacity;) former mayor NATALIE K.ROGERS,) individually and in her) official capacity; OCEAN BEACH) POLICE DEPARTMENT; ACTING) DEPUTY POLICE CHIEF GEORGE B.) HESSE, individually and in his) official capacity; SUFFOLK) COUNTY; SUFFOLK COUNTY POLICE) DEPARTMENT OF CIVIL SERVICE;) and ALLISON SANCHEZ,) individually and in her) official capacity,)) Defendants.) ----- X ***VOLUME II*** CONTINUED DEPOSITION OF GEORGE HESSE Uniondale, New York June 16, 2009</p> <p>Reported by: Judi Johnson, RPR, CRR, CLR Job No.: 23331</p>	<p style="text-align: right;">Page 304</p> <p>1 GEORGE HESSE 2 APPEARANCES: 3 THOMPSON WIGDOR & GILLY, LLP 4 Attorneys for the Plaintiffs 5 85 Fifth Avenue 6 New York, New York 10003 7 8 BY: ANDREW S. GOODSTADT, ESQ. 9 10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 11 Attorneys for GEORGE B. HESSE 12 530 Saw Mill Road 13 Elmsford, New York 10523 14 15 BY: KEVIN W. CONNOLLY, ESQ. 16 17 RIVKIN RADLER, LLP 18 Attorneys for INCORPORATED VILLAGE OF OCEAN BEACH, 19 JOSEPH LOEFFLER, NATALIE ROGERS AND OCEAN BEACH 20 POLICE DEPARTMENT 21 926 RexCorp Plaza 22 Uniondale, New York 11556-0926 23 24 BY: KENNETH A. NOVIKOFF, ESQ. 25 MICHAEL SCHNEPPER, ESQ. (A.M. SESSION ONLY)</p>
<p style="text-align: right;">Page 303</p> <p>1 2 926 RexCorp Plaza 3 Uniondale, New York 4 5 June 16, 2009 6 10:00 A.M. 7 8 9 10 11 12 13 Deposition of GEORGE HESSE, held at 14 the offices of RIVKIN RADLER, LLP, 926 15 RexCorp Plaza, Uniondale, New York, pursuant 16 to Notice, before Judi Johnson, a Registered 17 Professional Reporter, a Certified Realtime 18 Reporter, a Certified LiveNote Reporter and 19 Notary Public of the State of New York. 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 305</p> <p>1 GEORGE HESSE 2 3 BEE READY FISHBEIN HATTER & DONOVAN, LLP 4 5 Attorneys for SUFFOLK COUNTY 6 170 Old Country Road 7 Mineola, New York 11501 8 9 BY: (NOT PRESENT) 10 11 SUFFOLK COUNTY DEPARTMENT OF LAW 12 13 Attorneys for the County 14 100 Veterans Memorial Highway 15 Hauppauge, New York 11788 16 17 BY: CHRIS TERMINI, ESQ. 18 19 ALSO PRESENT: 20 JORDAN MUMMERT - LEGAL VIDEO SPECIALIST 21 FRANK FIORILLO 22 KEVIN LAMM 23 JOE NOFI - A.M. SESSION ONLY 24 25</p>

<p style="text-align: right;">Page 306</p> <p>1 GEORGE HESSE</p> <p>2 IT IS HEREBY STIPULATED AND AGREED by</p> <p>3 and between the attorneys for the respective</p> <p>4 parties herein, that filing and sealing and</p> <p>5 the same are hereby waived.</p> <p>6 IT IS FURTHER STIPULATED AND AGREED</p> <p>7 that all objections, except as to the form</p> <p>8 of the question, shall be reserved to the</p> <p>9 time of the trial.</p> <p>10 IT IS FURTHER STIPULATED AND AGREED</p> <p>11 that the within deposition may be sworn to</p> <p>12 and signed before any officer authorized to</p> <p>13 administer an oath, with the same force and</p> <p>14 effect as if signed and sworn to before the</p> <p>15 Court.</p> <p>16 - o0o -</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 308</p> <p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Andrew Goodstadt, 10:28:20AM</p> <p>3 Thompson, Wigdor & Gilly, on behalf of the 10:28:25AM</p> <p>4 plaintiffs. 10:28:28AM</p> <p>5 MR. CONNOLLY: Kevin W. Connolly of 10:28:28AM</p> <p>6 Marks, O'Neill, O'Brien & Courtney, on 10:28:29AM</p> <p>7 behalf of the Defendant Hesse. 10:28:31AM</p> <p>8 MR. NOVIKOFF: On behalf of the 10:28:33AM</p> <p>9 village defendants, Ken Novikoff, and with 10:28:33AM</p> <p>10 me is Michael Schnepfer, Rivkin Radler. 10:28:35AM</p> <p>11 MR. TERMINI: And for Suffolk County 10:28:39AM</p> <p>12 and the Suffolk County defendants, Assistant 10:28:40AM</p> <p>13 County Attorney Chris P. Termini. 10:28:41AM</p> <p>14 MR. NOVIKOFF: Andrew, same stips as 10:28:55AM</p> <p>15 in every other deposition? 10:28:57AM</p> <p>16 MR. GOODSTADT: Yes. 10:28:59AM</p> <p>17 MR. NOVIKOFF: And same agreement with 10:29:01AM</p> <p>18 regard to the phrase of rehire versus 10:29:02AM</p> <p>19 termination in your questioning and my 10:29:04AM</p> <p>20 questioning? 10:29:06AM</p> <p>21 MR. GOODSTADT: Until we establish 10:29:08AM</p> <p>22 something different possibly. 10:29:09AM</p> <p>23 MR. NOVIKOFF: Yes. 10:29:10AM</p> <p>24 MR. CONNOLLY: And objection by one 10:29:13AM</p> <p>25 counsel is an objection by all? 10:29:15AM</p>
<p style="text-align: right;">Page 307</p> <p>1 GEORGE HESSE</p> <p>2 GEORGE HESSE,</p> <p>3 Called as a witness herein, having</p> <p>4 first been duly sworn, was examined and</p> <p>5 testified as follows:</p> <p>6 BY THE REPORTER:</p> <p>7 Q Please state your name and address for</p> <p>8 the record.</p> <p>9 A George Hesse, 623 Bay Walk, P.O. Box</p> <p>10 425, Ocean Beach, New York 11770.</p> <p>11 THE VIDEOGRAPHER: This is the start 10:27:46AM</p> <p>12 of the tape labeled Number 1 of the 10:27:47AM</p> <p>13 continuation of the videotaped deposition of 10:27:49AM</p> <p>14 George Hesse in the matter Carter, Fiorillo 10:27:52AM</p> <p>15 versus Incorporated Village of Ocean Beach. 10:27:56AM</p> <p>16 This deposition is being held at 92006 10:28:00AM</p> <p>17 RexCorp Plaza in Uniondale, New York on 10:28:06AM</p> <p>18 June 16th, 2009, at approximately 10:28:11AM</p> <p>19 10:30 a.m. 10:28:12AM</p> <p>20 My name is Jordan Mummert from TSG 10:28:13AM</p> <p>21 Reporting, Inc. I'm the legal video 10:28:16AM</p> <p>22 specialist. The court reporter is Judi 10:28:18AM</p> <p>23 Johnson, in association with TGS Reporting. 10:28:19AM</p> <p>24 Would counsel please introduce 10:28:20AM</p> <p>25 yourself. 10:28:20AM</p>	<p style="text-align: right;">Page 309</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Sure. I'm fine with 10:29:18AM</p> <p>3 that. 10:29:19AM</p> <p>4 Are you fine with that? 10:29:20AM</p> <p>5 MR. GOODSTADT: Yeah, I'm fine with 10:29:21AM</p> <p>6 that. All objections other than as to form 10:29:22AM</p> <p>7 are preserved. 10:29:26AM</p> <p>8 EXAMINATION 10:29:27AM</p> <p>9 BY MR. GOODSTADT: 10:29:28AM</p> <p>10 Q Good morning, Mr. Hesse. 10:29:29AM</p> <p>11 A Good morning. 10:29:30AM</p> <p>12 Q Thank you for returning. 10:29:31AM</p> <p>13 I just want to remind you that you are 10:29:32AM</p> <p>14 under oath and that you're sworn to tell the 10:29:33AM</p> <p>15 truth, and failure to do so can result in some 10:29:34AM</p> <p>16 criminal sanctions. 10:29:36AM</p> <p>17 Do you understand that? 10:29:36AM</p> <p>18 A I do. 10:29:37AM</p> <p>19 Q Between the first day of your 10:29:38AM</p> <p>20 deposition on June 3rd and today, did you review 10:29:41AM</p> <p>21 the transcript of your first deposition? 10:29:44AM</p> <p>22 A No. 10:29:47AM</p> <p>23 Q Did you review any excerpts of your 10:29:47AM</p> <p>24 transcript -- 10:29:48AM</p> <p>25 A No. 10:29:50AM</p>

2 (Pages 306 to 309)

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1 GEORGE HESSE
2 Q -- of your first deposition? 10:29:50AM
3 I just want to remind you to let me 10:29:52AM
4 finish my question before you answers, and I'll 10:29:54AM
5 let you finish your answer. Okay? 10:29:56AM
6 A Yes. 10:29:56AM
7 Q Did you do anything to prepare for 10:29:57AM
8 today's deposition? 10:29:58AM
9 A Yes. 10:30:00AM
10 Q What did you do to prepare for today's 10:30:00AM
11 deposition? 10:30:03AM
12 A I met with my attorney, Kevin 10:30:03AM
13 Connolly, yesterday. 10:30:05AM
14 Q For how long? 10:30:07AM
15 A Maybe four hours. 10:30:09AM
16 Q Where did you meet with him? 10:30:10AM
17 A In Westchester -- Elmsford, at his 10:30:12AM
18 office. 10:30:14AM
19 Q And who was present during that 10:30:15AM
20 meeting? 10:30:17AM
21 A Just he and I. 10:30:17AM
22 Q Did you review any documents during 10:30:18AM
23 that meeting? 10:30:21AM
24 A Yes. 10:30:23AM
25 Q How many documents did you review? 10:30:24AM

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1 GEORGE HESSE
2 A Maybe five. 10:30:28AM
3 Q Which ones? 10:30:29AM
4 A They pertained to an incident that 10:30:31AM
5 took place October 31st of 2004 that dealt 10:30:33AM
6 with -- we all call the Halloween incident. 10:30:37AM
7 There may have been a couple of statements, a 10:30:43AM
8 few statements. 10:30:46AM
9 Q Any other documents other than for the 10:30:47AM
10 statements from the Halloween incident that you 10:30:50AM
11 reviewed in preparation for today's deposition? 10:30:53AM
12 A No. 10:30:54AM
13 Q Did you take the sergeant's test on 10:30:55AM
14 June 14th? 10:30:57AM
15 A Yes, I did. 10:30:58AM
16 Q And when do you find out what your 10:30:59AM
17 score is, whether you passed or failed? 10:31:01AM
18 A I'm not really sure. Maybe November. 10:31:04AM
19 Q So you don't know as of today whether 10:31:07AM
20 you passed or failed? 10:31:08AM
21 A No. 10:31:10AM
22 Q During your employment at Ocean Beach, 10:31:10AM
23 have you received any written performance 10:31:12AM
24 evaluations? 10:31:14AM
25 A Have I received any? 10:31:16AM

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1 GEORGE HESSE
2 Q Yes. 10:31:17AM
3 MR. NOVIKOFF: Objection. 10:31:18AM
4 Has he seen them or is he aware that 10:31:19AM
5 he's gotten any? 10:31:21AM
6 BY MR. GOODSTADT: 10:31:23AM
7 Q Well, why don't we start with have you 10:31:23AM
8 seen any written performance evaluations. 10:31:25AM
9 A For myself, no. 10:31:28AM
10 Q Have you ever -- are you aware any of 10:31:30AM
11 performance evaluations that have ever been 10:31:34AM
12 prepared for you? 10:31:36AM
13 A No. 10:31:37AM
14 MR. GOODSTADT: Just mark this. 10:31:41AM
15 (Whereupon, Bates document 4547-488 10:31:43AM
16 was marked as Plaintiff's Exhibit 8 for 10:31:43AM
17 identification, as of this date.) 10:31:43AM
18 MR. GOODSTADT: I've placed in front 10:32:19AM
19 of Mr. Hesse what's been marked as Hesse 8. 10:32:21AM
20 It is a two-page exhibit bearing Bates 10:32:24AM
21 numbers 4547 and 4548. 10:32:26AM
22 BY MR. GOODSTADT: 10:32:29AM
23 Q Mr. Hesse, have you ever seen this 10:32:30AM
24 document that's been marked as Hesse 8? 10:32:32AM
25 A I've seen the document, but not this 10:32:35AM

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1 GEORGE HESSE
2 particular document. 10:32:37AM
3 Q You've seen the form? 10:32:37AM
4 A I've seen the form, correct. 10:32:39AM
5 Q What's is this form? 10:32:40AM
6 A It's a yearly performance report. 10:32:41AM
7 Q Is this something that you've 10:32:43AM
8 completed for other officers at Ocean Beach? 10:32:45AM
9 A Yes. 10:32:46AM
10 Q What year did you start completing 10:32:47AM
11 these for other officers in Ocean Beach? 10:32:49AM
12 A I started in 2007. 10:32:51AM
13 Q And prior to 2007, do you know whether 10:32:53AM
14 there were any written performance evaluations 10:32:56AM
15 provided to any officers in Ocean Beach? 10:33:00AM
16 A I am unaware of any forms. 10:33:02AM
17 Q Who made the decision to start 10:33:06AM
18 providing officers with yearly performance 10:33:09AM
19 evaluations? 10:33:11AM
20 MR. NOVIKOFF: Objection to form. 10:33:13AM
21 A I did. 10:33:14AM
22 Q And why did you make that decision? 10:33:15AM
23 A Well, in light of recent events, I 10:33:17AM
24 thought it would be good to have some sort of a 10:33:20AM
25 documentation of officers' yearly performance. 10:33:24AM

3 (Pages 310 to 313)

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1 GEORGE HESSE
2 Q What do you mean in light of recent 10:33:29AM
3 events? 10:33:30AM
4 A Of this lawsuit. 10:33:32AM
5 Q Does Ocean Beach have a policy with 10:33:36AM
6 respect to written performance evaluations? 10:33:38AM
7 MR. NOVIKOFF: Objection. 10:33:42AM
8 A You know, I believe something just 10:33:45AM
9 came up recently about doing yearly performance 10:33:47AM
10 reports for every employee in the village. I 10:33:53AM
11 just received a copy of a new form that the 10:33:56AM
12 village would like to use. 10:33:59AM
13 Q When did you receive that? 10:34:01AM
14 A I believe last week. 10:34:02AM
15 Q Who did you receive it from? 10:34:05AM
16 A Maryanne Minerva. 10:34:06AM
17 Q Other than for the form that you 10:34:11AM
18 received, do you know whether there's any 10:34:12AM
19 policy -- strike that. 10:34:14AM
20 Between 2000 and 2006, do you know 10:34:16AM
21 whether there was any policy in Ocean Beach with 10:34:19AM
22 respect to written performance evaluations? 10:34:21AM
23 MR. NOVIKOFF: Objection. 10:34:25AM
24 A None that I'm aware of. 10:34:26AM
25 Q Do you know whether Hesse 8, which 10:34:28AM

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1 GEORGE HESSE
2 appears to be a yearly performance report for 10:34:30AM
3 you, do you know whether that was ever 10:34:33AM
4 completed? 10:34:35AM
5 A I don't think so, no. 10:34:36AM
6 Q Do you know who created this Hesse 8 10:34:37AM
7 that has your name and the year 2007 on there? 10:34:40AM
8 A Yes. 10:34:42AM
9 Q Who created that? 10:34:43AM
10 A Paul Trosco. 10:34:44AM
11 Q Did he create them for all the 10:34:49AM
12 officers for '07? 10:34:51AM
13 MR. NOVIKOFF: Objection. 10:34:53AM
14 A Yes. 10:34:53AM
15 MR. CONNOLLY: By "create," do you 10:35:01AM
16 mean fill in the officers' names? 10:35:01AM
17 MR. GOODSTADT: The names, exactly. 10:35:04AM
18 BY MR. GOODSTADT: 10:35:06AM
19 Q Who actually created this form, if you 10:35:06AM
20 know? 10:35:10AM
21 A Paul Trosco. 10:35:10AM
22 Q Was that your suggestion, that he 10:35:13AM
23 create a form? 10:35:14AM
24 A Yes. 10:35:15AM
25 Q And who actually filled out the 10:35:21AM

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1 GEORGE HESSE
2 evaluations for each of the officers in '07? 10:35:24AM
3 A I did. 10:35:27AM
4 Q Did anyone else have any input? 10:35:28AM
5 A No. 10:35:31AM
6 MR. GOODSTADT: Can you mark this. 10:36:04AM
7 (Whereupon, Bates document 8189 and 10:36:06AM
8 5326 was marked as Plaintiff's Exhibit 9 for 10:36:06AM
9 identification, as of this date.) 10:36:06AM
10 MR. GOODSTADT: I've placed in front 10:36:46AM
11 of Mr. Hesse what's now been marked as 10:36:46AM
12 Hesse 9. It is a two-page exhibit, bearing 10:36:49AM
13 Bates numbers 8189 and 5326. And I 10:36:53AM
14 represent these are not consecutively 10:36:57AM
15 paginated, and they appear to be two 10:37:00AM
16 separate performance evaluations, but I've 10:37:02AM
17 marked as a single exhibit. 10:37:04AM
18 MR. NOVIKOFF: One is G. Bosetti and 10:37:06AM
19 the other one is Kevin Nowaski? 10:37:08AM
20 MR. GOODSTADT: Yes. 10:37:14AM
21 BY MR. GOODSTADT: 10:37:16AM
22 Q Mr. Hesse, do you recognize the 10:37:16AM
23 documents that have been marked as Hesse 9? 10:37:18AM
24 A Yes. 10:37:21AM
25 Q And what are these documents? 10:37:21AM

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1 GEORGE HESSE
2 A Yearly performance reports for Gary 10:37:23AM
3 Bosetti and Kevin Nowaski. 10:37:27AM
4 Q If you look at the first page of 10:37:32AM
5 Hesse 9, 8189. 10:37:32AM
6 A Yes. 10:37:35AM
7 Q Is this your handwriting on the 10:37:36AM
8 document? 10:37:38AM
9 A Yes. 10:37:38AM
10 Q Is there anybody else's handwriting on 10:37:38AM
11 the document or is it all yours? 10:37:41AM
12 A It is all mine. 10:37:43AM
13 Q And if you look at the bottom, it says 10:37:43AM
14 "supervisor's signature." Is that your 10:37:46AM
15 signature? 10:37:48AM
16 A That is correct. 10:37:49AM
17 Q And it's dated 1-31-08. 10:37:49AM
18 Do you see that? 10:37:52AM
19 A Yes. 10:37:53AM
20 Q Is that the date that you completed 10:37:53AM
21 this? 10:37:54AM
22 A Okay. 10:37:55AM
23 Q What was your title at that time? 10:37:55AM
24 MR. NOVIKOFF: Objection. 10:37:57AM
25 A Deputy chief of police. 10:38:01AM

4 (Pages 314 to 317)

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1 GEORGE HESSE
2 Q And again, just so the record is 10:38:06AM
3 clear, by that time, you had not passed your 10:38:08AM
4 sergeant's test or your chief's test? 10:38:11AM
5 MR. NOVIKOFF: Objection. 10:38:15AM
6 A That's correct. 10:38:16AM
7 Q If you look up at the top, it's Gary 10:38:16AM
8 Bosetti. 10:38:19AM
9 Do you see that? 10:38:19AM
10 A Yes, sir. 10:38:20AM
11 Q And what was Mr. Bosetti's position in 10:38:20AM
12 the department at that time? 10:38:21AM
13 A Part-time seasonal police officer. 10:38:23AM
14 Q And if you look under the -- on the 10:38:26AM
15 first set of lines that has your handwriting on 10:38:30AM
16 it, the second line says, "Needs to write more 10:38:32AM
17 summons." 10:38:36AM
18 Do you see that? 10:38:37AM
19 A Yes. 10:38:37AM
20 Q What did you mean by that? 10:38:38AM
21 A I think he only wrote two for the 10:38:39AM
22 year, and I thought -- I expect him to write 10:38:42AM
23 more. 10:38:44AM
24 Q Did you ever tell -- other than for 10:38:45AM
25 this written evaluation, did you ever tell the 10:38:46AM

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1 GEORGE HESSE
2 officers in Ocean Beach that they need to write 10:38:49AM
3 more summons? 10:38:52AM
4 MR. NOVIKOFF: Objection to form. 10:38:54AM
5 A Yes. 10:38:55AM
6 Q Do you know whether Chief Paradiso 10:38:55AM
7 ever told the officers at any time between 2000 10:38:58AM
8 and 2006 that they need to write more summons? 10:39:01AM
9 A I don't know. 10:39:04AM
10 Q You never heard him say that? 10:39:04AM
11 A I don't recall. 10:39:06AM
12 Q Do you recall ever being in a meeting 10:39:08AM
13 where the chief put up on a board the number of 10:39:09AM
14 summons that people wrote? 10:39:12AM
15 A I don't recall that. 10:39:15AM
16 Q If you look at the second page of this 10:39:27AM
17 exhibit, 5226. 10:39:29AM
18 Do you see that? 10:39:32AM
19 A Yes. 10:39:32AM
20 Q Is this your handwriting again on this 10:39:33AM
21 document? 10:39:34AM
22 A Yes. 10:39:35AM
23 Q And that's your signature under 10:39:35AM
24 "supervisor's signature"? 10:39:36AM
25 A Yes. 10:39:38AM

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1 GEORGE HESSE
2 Q And again, you're telling Mr. Nowaski 10:39:38AM
3 that he needs to write more summons as well, 10:39:42AM
4 correct? 10:39:45AM
5 A Yes. 10:39:45AM
6 Q Was that a problem in the department, 10:39:46AM
7 that officers weren't writing enough summonses? 10:39:47AM
8 MR. NOVIKOFF: Objection. Form. 10:39:50AM
9 A I wouldn't say it was a problem, but I 10:39:51AM
10 thought guys needed to step up some of their 10:39:54AM
11 work. 10:39:56AM
12 Q And what was Mr. Nowaski's position in 10:39:57AM
13 2007? 10:40:01AM
14 A Part-time seasonal police officer. 10:40:01AM
15 Q Did you actually deliver these reports 10:40:03AM
16 to the different officers -- strike that. 10:40:06AM
17 Did you actually deliver Gary 10:40:09AM
18 Bosetti's report to him? 10:40:11AM
19 A I don't -- what do you mean by 10:40:16AM
20 "deliver"? 10:40:18AM
21 Q Actually sit down, go over it him, let 10:40:18AM
22 him see a copy of it, discuss it with him. 10:40:22AM
23 A No. 10:40:25AM
24 Q Did he ever actually ever see a copy 10:40:25AM
25 of this? 10:40:27AM

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1 GEORGE HESSE
2 A I don't know. 10:40:27AM
3 Q So you never showed him a copy of it? 10:40:28AM
4 A I really -- I don't recall if I did. 10:40:30AM
5 Q What did you do with this after you 10:40:32AM
6 filled it out? 10:40:34AM
7 A It went right into their employee 10:40:35AM
8 packets, their folders. 10:40:37AM
9 Q Personnel files? 10:40:40AM
10 A Yes. 10:40:40AM
11 Q How about Mr. Nowaski, did you deliver 10:40:42AM
12 a copy of this to Mr. Nowaski? 10:40:44AM
13 A No. 10:40:46AM
14 Q Did you deliver a copy of the annual 10:40:47AM
15 reports to any of the officers in '07? 10:40:49AM
16 A I don't recall if I did. 10:40:53AM
17 Q Did you ever receive an employee 10:40:57AM
18 handbook at Ocean Beach? 10:40:59AM
19 A I did, yes. 10:41:01AM
20 Q When did you receive it? 10:41:03AM
21 MR. NOVIKOFF: Objection. Form. 10:41:05AM
22 A Officially, in -- I'd like to say 10:41:14AM
23 '97ish. 10:41:22AM
24 Q What do you mean by officially? 10:41:24AM
25 A I believe it was a document that was 10:41:28AM

5 (Pages 318 to 321)

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1 GEORGE HESSE
2 formulated by someone in the village and it was 10:41:28AM
3 floating around for a while. It was never 10:41:28AM
4 officially approved. And then one day it just 10:41:32AM
5 kind of showed up. I still don't know if it was 10:41:35AM
6 approved. And to tell you, to this date, I 10:41:38AM
7 don't think it was approved until somewhere in 10:41:40AM
8 early 2000, 2001, '2. 10:41:43AM
9 **Q Approved by who? 10:41:46AM**
10 A By the village board. 10:41:47AM
11 **Q The board actually voted on it, 10:41:49AM**
12 **approved it somewhere in 2000, 2002? 10:41:51AM**
13 A I'm guessing. I don't recall. 10:41:53AM
14 MR. GOODSTADT: Let's mark this. 10:41:58AM
15 (Whereupon, Bates document 1-25 was 10:41:59AM
16 marked as Plaintiff's Exhibit 10 for 10:41:59AM
17 identification, as of this date.) 10:41:59AM
18 MR. GOODSTADT: I've placed in front 10:42:34AM
19 of Mr. Hesse what's been marked as Hesse 10. 10:42:35AM
20 It is a multiple-page exhibit bearing Bates 10:42:37AM
21 Numbers 1 through 25. (Handing.) 10:42:41AM
22 BY MR. GOODSTADT: 10:42:45AM
23 **Q Mr. Hesse, do you recognize this 10:42:46AM**
24 **document? 10:42:51AM**
25 A Yes. 10:42:51AM

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1 GEORGE HESSE
2 **Q And is this the handbook that you 10:42:52AM**
3 **testified that you received? 10:42:53AM**
4 A It appears to be. 10:42:54AM
5 **Q Do you know whether this handbook was 10:42:56AM**
6 **distributed to all officers in Ocean Beach? 10:42:58AM**
7 MR. NOVIKOFF: Objection. 10:43:01AM
8 A I don't believe so. 10:43:05AM
9 **Q Do you know if it was distributed to 10:43:05AM**
10 **any officers in Ocean Beach? 10:43:06AM**
11 MR. NOVIKOFF: Objection. 10:43:08AM
12 A I believe it was only distributed to 10:43:09AM
13 full-time persons of the village. 10:43:10AM
14 **Q So it's your understanding that it was 10:43:15AM**
15 **not distributed to any of the part-time 10:43:17AM**
16 **officers? 10:43:19AM**
17 A To the best of my recollection, no. 10:43:20AM
18 **Q Or any of the seasonal officers? 10:43:22AM**
19 A No. 10:43:23AM
20 **Q How come? 10:43:24AM**
21 MR. CONNOLLY: Objection. 10:43:25AM
22 MR. NOVIKOFF: Objection. 10:43:26AM
23 A I don't know. 10:43:27AM
24 **Q Who distributed it to the full-time 10:43:31AM**
25 **officers? 10:43:32AM**

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1 GEORGE HESSE
2 A The -- I believe Maryanne Minerva. 10:43:33AM
3 **Q Do you know whether the policies in 10:43:37AM**
4 **this handbook covered part-time or seasonal 10:43:38AM**
5 **employees? 10:43:41AM**
6 A I think very vaguely. I'd have to 10:43:41AM
7 read through it. 10:43:43AM
8 **Q You don't know one way or the other, 10:43:44AM**
9 **sitting here? 10:43:45AM**
10 MR. NOVIKOFF: Objection. Asked and 10:43:48AM
11 answered. 10:43:50AM
12 A Right now, no. 10:43:50AM
13 **Q If you turn to Page 5 -- it's Page 5 10:43:55AM**
14 **of the book, but it's Bates numbered 9. 10:43:59AM**
15 A (Witness complies.) Uh-huh. 10:44:02AM
16 Okay. 10:44:04AM
17 **Q Do you have that page? 10:44:08AM**
18 A Yes. 10:44:09AM
19 **Q Do you see up top where it says 10:44:10AM**
20 **"unacceptable job performance/disciplinary 10:44:11AM**
21 **action"? 10:44:15AM**
22 A Yes, I do. 10:44:16AM
23 MR. NOVIKOFF: Are we on Page 5? 10:44:16AM
24 MR. GOODSTADT: Bates stamped 9, but 10:44:19AM
25 it's Page 5 of the book. 10:44:20AM

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1 GEORGE HESSE
2 MR. NOVIKOFF: Bates stamped 9, but 10:44:23AM
3 Page 5 of the book? Okay. I got it. 10:44:28AM
4 BY MR. GOODSTADT: 10:44:30AM
5 **Q Now, do you see the second paragraph 10:44:30AM**
6 **down, it goes through a progressive disciplinary 10:44:31AM**
7 **system? 10:44:36AM**
8 A Yes. 10:44:38AM
9 **Q Says, "It upholds and maintains a 10:44:38AM**
10 **progressive disciplinary system which may 10:44:43AM**
11 **include all or part of the following steps 10:44:43AM**
12 **unless otherwise covered by law." 10:44:46AM**
13 **Do you see that? 10:44:49AM**
14 A Yes. 10:44:50AM
15 **Q Did you implement this disciplinary 10:44:50AM**
16 **system? 10:44:52AM**
17 MR. NOVIKOFF: Objection. 10:44:53AM
18 A No. 10:44:53AM
19 **Q Do you know whether anyone in the 10:44:54AM**
20 **police department ever implemented this 10:44:56AM**
21 **disciplinary system? 10:45:00AM**
22 A I am unaware. 10:45:01AM
23 **Q So you don't know one way or the 10:45:02AM**
24 **other? 10:45:03AM**
25 A No. 10:45:05AM

6 (Pages 322 to 325)

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1 GEORGE HESSE
2 Q If you look at Page 6 of the book, 10:45:05AM
3 Bates stamp 10, do you see the employee 10:45:08AM
4 performance appraisals paragraph? It's like 10:45:12AM
5 halfway down the page. 10:45:15AM
6 Do you see that? 10:45:16AM
7 A Yes. 10:45:19AM
8 Q Okay. It says, "Newly hired employees 10:45:20AM
9 may receive performance appraisals after 30 10:45:22AM
10 days." 10:45:26AM
11 Do you see that? 10:45:26AM
12 A Yes. 10:45:27AM
13 Q Did you ever administer performance 10:45:27AM
14 appraisals to any of your newly hired officers 10:45:30AM
15 after 30 days? 10:45:33AM
16 MR. NOVIKOFF: Objection. Foundation. 10:45:35AM
17 A No. 10:45:37AM
18 MR. NOVIKOFF: Form. 10:45:38AM
19 BY MR. GOODSTADT: 10:45:38AM
20 Q Do you know whether any performance 10:45:39AM
21 appraisals were ever given to newly hired 10:45:41AM
22 officers after 30 days? 10:45:44AM
23 MR. NOVIKOFF: Form. 10:45:46AM
24 A No. 10:45:46AM
25 Q And it says "and a more formal 10:45:47AM

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1 GEORGE HESSE
2 evaluation at the end of six months." 10:45:49AM
3 Do you see that? 10:45:52AM
4 A Yes. 10:45:52AM
5 Q Did you ever give a performance 10:45:53AM
6 appraisal to any of the officers at the end of 10:45:55AM
7 six months? 10:45:58AM
8 MR. NOVIKOFF: Objection. Foundation. 10:46:00AM
9 A No. 10:46:01AM
10 Q Do you know whether any officers were 10:46:01AM
11 ever any performance appraisals at the end of 10:46:02AM
12 six months? 10:46:06AM
13 MR. NOVIKOFF: Objection. Foundation. 10:46:07AM
14 A No. 10:46:08AM
15 Q The last sentence says, "Thereafter, 10:46:09AM
16 all employees may receive a performance 10:46:11AM
17 appraisal annually." 10:46:13AM
18 Do you see that? 10:46:15AM
19 A Yes. 10:46:16AM
20 Q And to your knowledge, that had not 10:46:17AM
21 been implemented until -- in the police 10:46:20AM
22 department until 2007; is that correct? 10:46:22AM
23 MR. NOVIKOFF: Objection. Form. 10:46:26AM
24 Foundation. 10:46:27AM
25 A Correct. 10:46:28AM

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1 GEORGE HESSE
2 Q If you look at -- strike that. 10:46:33AM
3 Before you look at the next section 10:46:36AM
4 I'll ask you to look at. 10:46:37AM
5 Did Ocean Beach Police Department or 10:46:39AM
6 the village have a policy with respect to 10:46:41AM
7 officers drinking on duty? 10:46:45AM
8 MR. NOVIKOFF: Form. Foundation. 10:46:47AM
9 A Repeat that question. 10:46:48AM
10 Q Yeah. Did the Ocean Beach Police 10:46:50AM
11 Department or the village have any policy with 10:46:51AM
12 respect to officers drinking while on duty? 10:46:55AM
13 MR. NOVIKOFF: Objection. Same. 10:46:58AM
14 A No policy. 10:46:59AM
15 Q No policy? 10:47:00AM
16 A Nothing writing -- in writing. 10:47:01AM
17 Q Do you know whether the police 10:47:05AM
18 department had any policy -- the police 10:47:06AM
19 department or the village had any policy with 10:47:08AM
20 respect to off-duty police officers drinking in 10:47:11AM
21 Ocean Beach? 10:47:16AM
22 MR. NOVIKOFF: Objection. 10:47:16AM
23 A Nothing formal. 10:47:17AM
24 Q So you don't recall any directives 10:47:19AM
25 ever being posted with respect to officers who 10:47:20AM

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1 GEORGE HESSE
2 were off duty drinking in Ocean Beach? 10:47:24AM
3 A I don't recall. 10:47:27AM
4 Q Do you know whether the beach had or 10:47:32AM
5 the department had any policy with respect to 10:47:34AM
6 officers who show up to work under the influence 10:47:40AM
7 of alcohol? 10:47:42AM
8 A There was no written policies. 10:47:44AM
9 Q Okay. Do you know whether there was 10:47:45AM
10 ever any verbal policies with respect to 10:47:49AM
11 officers drinking on duty? 10:47:51AM
12 MR. NOVIKOFF: Note my objection. 10:47:53AM
13 A Well, I'm sure it would be frowned 10:47:56AM
14 upon if somebody showed up intoxicated. I don't 10:47:59AM
15 think that was ever an issue. I believe 10:48:03AM
16 Paradiso, Chief Paradiso might have put out 10:48:06AM
17 there that he referred -- preferred that guys 10:48:08AM
18 didn't drink in the village off duty. 10:48:14AM
19 Q When did he put that out there? 10:48:16AM
20 A I don't recall. You know, that was 10:48:17AM
21 like a give-and-take type thing over the many 10:48:19AM
22 years I've been there. 10:48:21AM
23 Q When do you recall him actually 10:48:23AM
24 putting it out there, though, what years? 10:48:25AM
25 A I don't recall which years. 10:48:28AM

7 (Pages 326 to 329)

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1 GEORGE HESSE
2 **Q When you say give and take, what did 10:48:29AM**
3 **you mean by that? 10:48:30AM**
4 A When I first started there, there was 10:48:34AM
5 a policy that we were not supposed to be 10:48:36AM
6 drinking in the bars after we got off duty; but 10:48:38AM
7 then, I guess Ed Paradiso had lightened up on 10:48:45AM
8 that, and that was that. 10:48:49AM
9 **Q What do you mean by Ed Paradiso 10:48:52AM**
10 **lightened up on that? 10:48:53AM**
11 A You know, because guys would go out 10:48:54AM
12 for drinks after work. You know, we were a 10:48:56AM
13 little more mature, a little more adult than 10:48:59AM
14 police officers that they had there in the past 10:49:00AM
15 that worked there that couldn't control 10:49:01AM
16 themselves. And, you know, he would join us 10:49:03AM
17 sometimes, so... 10:49:07AM
18 **Q When did he lighten up on it? 10:49:09AM**
19 A Probably around '95. 10:49:12AM
20 **Q Did he ever get harder on that policy 10:49:16AM**
21 **and reinstate it? 10:49:21AM**
22 A Not that I recall. 10:49:23AM
23 **Q So from '95 until his last day of 10:49:25AM**
24 **employment at the beach, you don't recall him 10:49:28AM**
25 **ever verbally telling police officers that he 10:49:30AM**

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1 GEORGE HESSE
2 **preferred that they not go out and drink in the 10:49:35AM**
3 **bars off duty? 10:49:38AM**
4 MR. NOVIKOFF: Objection. Form. 10:49:39AM
5 A I don't recall any. 10:49:40AM
6 **Q Do you recall Paradiso ever expressing 10:49:41AM**
7 **that preference or policy when the Bosettis were 10:49:47AM**
8 **working? 10:49:50AM**
9 MR. NOVIKOFF: Objection. 10:49:52AM
10 A I don't recall that. 10:49:53AM
11 **Q Did you ever hear him tell the 10:49:54AM**
12 **Bosettis that they shouldn't be going drinking 10:49:56AM**
13 **in bars in Ocean Beach when they're off duty? 10:49:59AM**
14 A I've never heard him tell them that. 10:50:02AM
15 **Q Did you ever tell the Bosettis that? 10:50:04AM**
16 A I don't recall if I did. 10:50:06AM
17 **Q Did you ever have a policy with 10:50:07AM**
18 **respect to -- a verbal policy with respect to 10:50:08AM**
19 **officers drinking in Ocean Beach while they're 10:50:12AM**
20 **off duty? 10:50:15AM**
21 A I never had a policy, no. 10:50:16AM
22 **Q Did you ever have a policy with 10:50:18AM**
23 **respect to officers drinking while they're on 10:50:20AM**
24 **duty, a verbal policy? 10:50:23AM**
25 MR. NOVIKOFF: Objection. 10:50:25AM

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1 GEORGE HESSE
2 A I would've liked to think that they 10:50:31AM
3 wouldn't do that. I don't know of any policy 10:50:33AM
4 that was out there. 10:50:36AM
5 **Q Did you ever speak to anybody or 10:50:37AM**
6 **discuss that issue with anybody, any officers? 10:50:39AM**
7 A About drinking on duty? 10:50:41AM
8 **Q Yes. 10:50:43AM**
9 A I don't recall any conversation of 10:50:43AM
10 such. 10:50:45AM
11 **Q Do you ever recall any directives 10:50:49AM**
12 **being posted regarding drinking at the bars, 10:50:51AM**
13 **whether on duty or off duty? 10:50:54AM**
14 A I don't recall any policies that were 10:50:56AM
15 posted. 10:50:58AM
16 **Q I asked for directive. Are you using 10:51:01AM**
17 **the term "policy" interchange- -- 10:51:03AM**
18 A Policy or directive. I understand 10:51:06AM
19 what you're saying. No, not that I recall any 10:51:06AM
20 being posted. 10:51:08AM
21 **Q But just to be clear, those two terms 10:51:09AM**
22 **are interchangeable, a directive and a policy? 10:51:09AM**
23 MR. NOVIKOFF: Objection. 10:51:12AM
24 BY MR. GOODSTADT: 10:51:12AM
25 **Q So if I use policy, that's going to 10:51:13AM**

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1 GEORGE HESSE
2 **cover directive? If I use directly, it will 10:51:15AM**
3 **cover policy? 10:51:15AM**
4 MR. NOVIKOFF: Objection. 10:51:16AM
5 A Actually, they can mean two different 10:51:17AM
6 things. 10:51:19AM
7 **Q Did you ever have any alcoholic 10:51:27AM**
8 **beverages while on duty? 10:51:28AM**
9 A No. 10:51:30AM
10 **Q Did you ever have any alcoholic 10:51:31AM**
11 **beverages while in uniform? 10:51:33AM**
12 A Yes. 10:51:35AM
13 **Q How many times? 10:51:35AM**
14 A I'd say in the range of six times. 10:51:44AM
15 **Q Where were you during those six times? 10:51:47AM**
16 A At least three times in the parade in 10:51:51AM
17 New York City for St. Patty's Day, and I think 10:51:54AM
18 the other three were funerals. 10:51:59AM
19 **Q Did you ever have an alcoholic 10:52:05AM**
20 **beverage in the station? 10:52:07AM**
21 A Yes. 10:52:08AM
22 **Q While in uniform? 10:52:08AM**
23 A No. 10:52:10AM
24 **Q While on duty? 10:52:11AM**
25 A No. 10:52:12AM

8 (Pages 330 to 333)

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1 GEORGE HESSE
2 **Q What alcoholic beverages have you had 10:52:14AM**
3 **in the station? 10:52:16AM**
4 A I've had a beer, and I had something 10:52:17AM
5 called a rocket fuel once or twice. 10:52:22AM
6 **Q Any other alcoholic beverages that you 10:52:29AM**
7 **drank in the station? 10:52:32AM**
8 A No, not that I recall. 10:52:33AM
9 **Q Were you in uniform those times in the 10:52:34AM**
10 **station? 10:52:36AM**
11 MR. NOVIKOFF: Objection. Asked and 10:52:36AM
12 answered. 10:52:37AM
13 A No. 10:52:38AM
14 **Q When did you have the rocket fuels in 10:52:39AM**
15 **the station? What years were they? 10:52:41AM**
16 A 2005, 2004. Maybe 2003. 10:52:47AM
17 **Q Where did you get the rocket fuels 10:52:55AM**
18 **from? 10:52:57AM**
19 A A bar called CJ's. 10:52:57AM
20 **Q Did they deliver them? Someone picked 10:53:03AM**
21 **them up? How did they get to the station? 10:53:05AM**
22 A On occasion, sometimes they would just 10:53:09AM
23 deliver them at the end of -- the close of the 10:53:11AM
24 bar. 10:53:13AM
25 **Q Who would deliver them? 10:53:15AM**

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1 GEORGE HESSE
2 A One of the barbacks. 10:53:16AM
3 **Q What was the name? 10:53:18AM**
4 A I believe one of the kids was Brian, 10:53:21AM
5 and another one -- another kid had the name of 10:53:24AM
6 Paul. 10:53:30AM
7 **Q Paul Conway? 10:53:31AM**
8 A If that's his last name. I don't 10:53:33AM
9 know. 10:53:34AM
10 **Q Do you know Brian's last name? 10:53:36AM**
11 A Esop. 10:53:38AM
12 **Q Did they charge you for the rocket 10:53:43AM**
13 **fuels? 10:53:45AM**
14 A Sometimes. 10:53:45AM
15 **Q But sometimes they didn't? 10:53:46AM**
16 A Right. 10:53:48AM
17 **Q Who else drank rocket fuels with you 10:53:49AM**
18 **in the police station? 10:53:51AM**
19 A Let's see. I guess when we were 10:53:54AM
20 getting off duty, Dave Gurden. Who else? You 10:53:56AM
21 know, I don't recall anybody else because it 10:54:05AM
22 wasn't a very popular drink. 10:54:08AM
23 **Q Do you recall Gary Bosetti drinking 10:54:13AM**
24 **rocket fuel at the station? 10:54:15AM**
25 A No, I don't recall any. 10:54:16AM

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1 GEORGE HESSE
2 **Q How about Rich Bosetti? 10:54:17AM**
3 A I don't recall. 10:54:19AM
4 **Q Ty Bacon? 10:54:20AM**
5 A No. 10:54:21AM
6 **Q No, you don't recall or you definitely 10:54:23AM**
7 **did not see him? 10:54:25AM**
8 A I've never seen him drink. 10:54:26AM
9 **Q At any point, you've never seen him 10:54:28AM**
10 **drink? 10:54:30AM**
11 A Yeah, you know what, yeah, you're 10:54:30AM
12 right. At a party, I've seen him have a beer or 10:54:32AM
13 something, but not in the station house, no. 10:54:35AM
14 **Q How about Walter Moeller, did you ever 10:54:37AM**
15 **see him drink a rocket fuel in the station? 10:54:40AM**
16 A No. 10:54:42AM
17 **Q Did you ever see him drink in the 10:54:43AM**
18 **station? 10:54:44AM**
19 A No. 10:54:44AM
20 **Q Did you ever see him drink on duty? 10:54:45AM**
21 A No. 10:54:47AM
22 **Q Do you know whether he's ever drank on 10:54:50AM**
23 **duty? 10:54:52AM**
24 A I don't know. 10:54:53AM
25 **Q Did there ever come a time where 10:54:56AM**

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1 GEORGE HESSE
2 **Moeller got into a car accident right after 10:54:59AM**
3 **leaving the beach? 10:55:03AM**
4 A Yes. 10:55:04AM
5 **Q Do you recall what year that was? 10:55:05AM**
6 A Was it 2004? No, it couldn't have 10:55:13AM
7 been 2004. Maybe 2006. 10:55:17AM
8 **Q How long after his tour was the 10:55:27AM**
9 **accident? 10:55:30AM**
10 A Maybe a half hour. 10:55:32AM
11 **Q And you were called to the scene? 10:55:37AM**
12 A I got a phone call, yes. 10:55:39AM
13 **Q Who called you? 10:55:41AM**
14 A It might have been Walter Moeller 10:55:44AM
15 himself. 10:55:46AM
16 **Q Do you know why he called you? 10:55:47AM**
17 A He said he was just in a car accident. 10:55:49AM
18 And he couldn't find his shield; and he had his 10:55:51AM
19 weapon on him, and he was going to the hospital. 10:55:58AM
20 So he wanted me to come down and secure it. 10:56:01AM
21 **Q So you went -- did you go to the scene 10:56:04AM**
22 **of the accident? 10:56:05AM**
23 A I went right to the scene, yes. 10:56:05AM
24 **Q Where was the accident? 10:56:07AM**
25 A It was at the corner of, I believe, 10:56:09AM

9 (Pages 334 to 337)

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1 GEORGE HESSE
2 Fifth Avenue and Montauk Highway, in front of 10:56:11AM
3 St. Pat's church. 10:56:15AM
4 **Q Was anyone injured in the accident?** 10:56:16AM
5 A Just him. 10:56:18AM
6 **Q And did you take his weapon from him?** 10:56:19AM
7 A Yes, I did. 10:56:21AM
8 **Q Did you ever find his shield?** 10:56:22AM
9 A Yes, I did. 10:56:24AM
10 **Q Was Walter Moeller drinking prior to** 10:56:26AM
11 **that accident?** 10:56:29AM
12 A No, not that I know of. 10:56:30AM
13 **Q Did you ever see the PCR -- do you** 10:56:32AM
14 **know what a PCR is?** 10:56:34AM
15 A Yes. 10:56:37AM
16 **Q What is a PCR?** 10:56:37AM
17 A A pre-hospital care report. 10:56:40AM
18 **Q Did you ever see the PCR with respect** 10:56:41AM
19 **to that accident?** 10:56:41AM
20 A No. 10:56:42AM
21 **Q So you don't know one way or the other** 10:56:41AM
22 **whether the PCR indicated that he had alcohol on** 10:56:42AM
23 **his breath?** 10:56:44AM
24 A I have no idea. 10:56:45AM
25 **Q Have you ever seen any officers in** 10:57:01AM

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1 GEORGE HESSE
2 **Ocean Beach drink while they're on duty?** 10:57:03AM
3 A No. 10:57:05AM
4 **Q Has anybody ever complained to you** 10:57:10AM
5 **that other officers were drinking while they** 10:57:12AM
6 **were on duty?** 10:57:14AM
7 A Never. 10:57:15AM
8 **Q Is it true that Ed Carter complained** 10:57:20AM
9 **to you that he had to get the cell phone from** 10:57:22AM
10 **the Bosettis in CJ's?** 10:57:26AM
11 A Never. 10:57:28AM
12 **Q Did you ever see Arnold Hardman drink** 10:57:31AM
13 **the rocket fuel?** 10:57:34AM
14 MR. NOVIKOFF: Objection. Asked and 10:57:36AM
15 answered. 10:57:37AM
16 A Arnold Hardman? Not that I recall, 10:57:38AM
17 no. 10:57:40AM
18 **Q Did you ever see Hardman drink while** 10:57:42AM
19 **he was on duty?** 10:57:44AM
20 A Never. 10:57:45AM
21 **Q Would you agree that if officers were** 10:57:50AM
22 **drinking on duty, it would pose a public safety** 10:57:53AM
23 **threat?** 10:57:56AM
24 MR. NOVIKOFF: Objection. 10:57:57AM
25 MR. CONNOLLY: Objection. 10:57:57AM

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1 GEORGE HESSE
2 A I do, in my opinion, yes. 10:57:58AM
3 **Q What public safety threat would it** 10:58:03AM
4 **pose?** 10:58:05AM
5 MR. NOVIKOFF: Objection. 10:58:05AM
6 A It would severely hinder your 10:58:09AM
7 judgment, I think, to many respects on the job. 10:58:12AM
8 **Q It would be a public safety threat if** 10:58:16AM
9 **officers were drinking on duty and they were** 10:58:19AM
10 **carrying a weapon?** 10:58:21AM
11 MR. NOVIKOFF: Objection. 10:58:22AM
12 A Yes. 10:58:23AM
13 **Q Would it pose a public safety threat** 10:58:27AM
14 **if officers on duty were in the bars instead of** 10:58:30AM
15 **patrolling the neighborhood?** 10:58:33AM
16 MR. NOVIKOFF: Objection. How about 10:58:35AM
17 if they were in the bars performing -- 10:58:41AM
18 MR. GOODSTADT: In the bars drinking. 10:58:43AM
19 MR. NOVIKOFF: You didn't ask that. 10:58:45AM
20 In the bars drinking off duty? 10:58:46AM
21 MR. GOODSTADT: No, on duty. 10:58:49AM
22 MR. NOVIKOFF: Oh, okay. 10:58:51AM
23 A You might as well repeat the entire 10:58:52AM
24 question. 10:58:55AM
25 **Q The question is: Do you agree with me** 10:58:55AM

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1 GEORGE HESSE
2 **that it would be a public safety threat if** 10:58:57AM
3 **officers were drinking in the bars while on duty** 10:59:01AM
4 **instead of patrolling the village?** 10:59:02AM
5 MR. NOVIKOFF: Objection. 10:59:03AM
6 A In my opinion, yes. 10:59:03AM
7 **Q Do you think it would -- strike that.** 10:59:10AM
8 **Do you think it undermines police** 10:59:12AM
9 **officers' authority to be drinking off duty in** 10:59:15AM
10 **the bars in Ocean Beach?** 10:59:19AM
11 MR. NOVIKOFF: Objection. 10:59:20AM
12 A Undermines your authority? I don't 10:59:25AM
13 think so, no. 10:59:26AM
14 **Q You don't think there's a public** 10:59:27AM
15 **perception problem if officers off duty are** 10:59:29AM
16 **drinking in the bars that they are required to** 10:59:34AM
17 **patrol on duty?** 10:59:39AM
18 MR. NOVIKOFF: Objection. 10:59:41AM
19 MR. CONNOLLY: Objection. 10:59:41AM
20 A You're asking me to -- 10:59:42AM
21 **Q I'm asking your opinion on that.** 10:59:44AM
22 A Yeah, I don't know. 10:59:46AM
23 MR. NOVIKOFF: Which is pantingly 10:59:49AM
24 irrelevant. 10:59:52AM
25 What was your answer? 10:59:55AM

10 (Pages 338 to 341)

<p style="text-align: right;">Page 342</p> <p>1 GEORGE HESSE</p> <p>2 THE WITNESS: I have no idea if it 10:59:56AM</p> <p>3 would. 10:59:57AM</p> <p>4 MR. NOVIKOFF: Me either. 10:59:58AM</p> <p>5 MR. GOODSTADT: Luckily you're not the 11:00:01AM</p> <p>6 witness today. 11:00:02AM</p> <p>7 BY MR. GOODSTADT: 11:00:03AM</p> <p>8 Q Isn't it true that Tommy Snyder 11:00:03AM</p> <p>9 complained to you that the Bosettis took the 11:00:06AM</p> <p>10 cell phone from him and went to the bars while 11:00:08AM</p> <p>11 they were on duty? 11:00:10AM</p> <p>12 MR. NOVIKOFF: Objection. Leading. 11:00:13AM</p> <p>13 A He never complained to me. 11:00:14AM</p> <p>14 Q He never complained to you about 11:00:16AM</p> <p>15 anything or just about that issue? 11:00:19AM</p> <p>16 A Never. 11:00:20AM</p> <p>17 MR. NOVIKOFF: Your question was any 11:00:21AM</p> <p>18 issue -- 11:00:22AM</p> <p>19 MR. GOODSTADT: I was going to ask him 11:00:22AM</p> <p>20 if he meant just about that issue or any 11:00:22AM</p> <p>21 issue. 11:00:22AM</p> <p>22 MR. CONNOLLY: Well, it wasn't 11:00:23AM</p> <p>23 responsive to your question. 11:00:24AM</p> <p>24 MR. GOODSTADT: And that's why I was 11:00:25AM</p> <p>25 asking him to clarify. 11:00:26AM</p>	<p style="text-align: right;">Page 344</p> <p>1 GEORGE HESSE</p> <p>2 complained to him. 11:01:30AM</p> <p>3 MR. NOVIKOFF: Well, then that would 11:01:31AM</p> <p>4 cover everything. Objection to the form. 11:01:31AM</p> <p>5 A I don't recall anything of that nature 11:01:33AM</p> <p>6 at all. 11:01:35AM</p> <p>7 Q Is it true that Frank Fiorillo 11:01:42AM</p> <p>8 complained to you that he had to relieve the 11:01:44AM</p> <p>9 Bosettis on the next tour in the bar? 11:01:46AM</p> <p>10 MR. NOVIKOFF: Objection. Form. 11:01:49AM</p> <p>11 Leading. 11:01:50AM</p> <p>12 A No. 11:01:51AM</p> <p>13 Q Isn't it true that Ed Carter 11:01:54AM</p> <p>14 complained about that as well? 11:01:55AM</p> <p>15 MR. NOVIKOFF: Objection. Form. 11:01:57AM</p> <p>16 A No. 11:01:58AM</p> <p>17 Q Did any of the plaintiffs in this case 11:02:01AM</p> <p>18 ever complain to you about officers drinking in 11:02:03AM</p> <p>19 the bars in Ocean Beach? 11:02:05AM</p> <p>20 MR. NOVIKOFF: Objection. Asked and 11:02:07AM</p> <p>21 answered. 11:02:07AM</p> <p>22 A No. 11:02:09AM</p> <p>23 Q Did Ed Carter ever complain to you 11:02:22AM</p> <p>24 about officers bringing alcohol into the 11:02:24AM</p> <p>25 station? 11:02:26AM</p>
<p style="text-align: right;">Page 343</p> <p>1 GEORGE HESSE</p> <p>2 A Repeat the question. 11:00:28AM</p> <p>3 Q Sure. 11:00:29AM</p> <p>4 You said he never complained to me. 11:00:31AM</p> <p>5 My question -- my follow-up question was he 11:00:33AM</p> <p>6 never complained to you about that issue or he 11:00:34AM</p> <p>7 never complained to you about anything? 11:00:36AM</p> <p>8 A I gotta say, he's never complained to 11:00:38AM</p> <p>9 me about anything. Specifically that issue. 11:00:40AM</p> <p>10 Q Would you agree with me that if 11:00:50AM</p> <p>11 officers took the police cell phone into a bar 11:00:52AM</p> <p>12 and were not answering the cell phone, that it 11:00:56AM</p> <p>13 would pose a public safety threat? 11:00:59AM</p> <p>14 MR. NOVIKOFF: Objection. 11:01:02AM</p> <p>15 A I could speculate, yeah, it would be 11:01:02AM</p> <p>16 an issue. 11:01:04AM</p> <p>17 Q Is it your testimony that Snyder never 11:01:10AM</p> <p>18 complained to you that there were messages that 11:01:14AM</p> <p>19 went unanswered on the cell phone when the 11:01:17AM</p> <p>20 Bosettis returned the cell phone back to him? 11:01:20AM</p> <p>21 MR. CONNOLLY: Objection. 11:01:23AM</p> <p>22 MR. NOVIKOFF: Objection. You didn't 11:01:23AM</p> <p>23 answer ask him that question, so how could 11:01:25AM</p> <p>24 it be his testimony. 11:01:27AM</p> <p>25 MR. GOODSTADT: He said he never 11:01:28AM</p>	<p style="text-align: right;">Page 345</p> <p>1 GEORGE HESSE</p> <p>2 A No. 11:02:27AM</p> <p>3 Q Did Ed Carter ever complain about 11:02:30AM</p> <p>4 officers drinking rocket fuel in the station? 11:02:32AM</p> <p>5 A No. 11:02:34AM</p> <p>6 Q Did Ed Carter ever complain that he 11:02:34AM</p> <p>7 was required to clean up after officers who were 11:02:36AM</p> <p>8 drinking rocket fuels in the station? 11:02:39AM</p> <p>9 A Never. 11:02:41AM</p> <p>10 Q Did anyone ever complain to you that 11:02:49AM</p> <p>11 officers left dock masters in the station to 11:02:51AM</p> <p>12 cover their shifts while they went out to the 11:02:54AM</p> <p>13 bars? 11:02:57AM</p> <p>14 A Never. 11:02:57AM</p> <p>15 Q Did Joe Nofi complain to you that dock 11:03:09AM</p> <p>16 masters were covering for officers? 11:03:13AM</p> <p>17 A Never. 11:03:15AM</p> <p>18 Q Would you agree with me that it would 11:03:17AM</p> <p>19 be inappropriate for dock masters to be covering 11:03:18AM</p> <p>20 police officers' shifts? 11:03:22AM</p> <p>21 MR. NOVIKOFF: Objection. Form. 11:03:24AM</p> <p>22 MR. CONNOLLY: What do you mean? 11:03:26AM</p> <p>23 Define "shift." 11:03:28AM</p> <p>24 MR. NOVIKOFF: Define "appropriate." 11:03:30AM</p> <p>25</p>

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1 GEORGE HESSE
 2 BY MR. GOODSTADT: 11:03:31AM
 3 **Q To cover for them while they were -- 11:03:32AM**
 4 **you know, while they were supposed to be on 11:03:34AM**
 5 **duty? 11:03:36AM**
 6 MR. NOVIKOFF: Objection. 11:03:37AM
 7 A To what respect? You know, a dock 11:03:38AM
 8 master is not a police officer. He can't cover 11:03:41AM
 9 the shift. 11:03:44AM
 10 **Q So it would be inappropriate for a 11:03:45AM**
 11 **dock master to cover a police shift, right? 11:03:46AM**
 12 A Yeah. 11:03:49AM
 13 MR. NOVIKOFF: Objection. 11:03:50AM
 14 BY MR. GOODSTADT: 11:03:50AM
 15 **Q Is it appropriate to dispatch as a 11:04:03AM**
 16 **dock master? 11:04:09AM**
 17 A Was it appropriate? 11:04:11AM
 18 **Q Yes. 11:04:12AM**
 19 MR. NOVIKOFF: Objection. 11:04:13AM
 20 A It was only used in extreme 11:04:15AM
 21 situations. 11:04:17AM
 22 **Q How about in -- well, what do you mean 11:04:18AM**
 23 **by in extreme situations? 11:04:20AM**
 24 A Whereas if we were shorthanded or 11:04:23AM
 25 something on the street and we had a police 11:04:24AM

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1 GEORGE HESSE
 2 officer sitting on the desk and something, an 11:04:27AM
 3 incident occurred in the street that required 11:04:29AM
 4 some extra assistance, we would call the dock 11:04:30AM
 5 master in to answer the phones. 11:04:33AM
 6 **Q How about outside of that extreme 11:04:35AM**
 7 **situation, would it be appropriate for a dock 11:04:37AM**
 8 **master to dispatch? 11:04:39AM**
 9 MR. NOVIKOFF: Objection. 11:04:41AM
 10 A It was used on occasion just so it 11:04:43AM
 11 could free up a police officer. 11:04:45AM
 12 **Q In case of an emergency? 11:04:47AM**
 13 A Most of the time, yes. 11:04:49AM
 14 **Q How about outside of an emergency? 11:04:51AM**
 15 A Not that I recall any. 11:04:53AM
 16 **Q But I'm asking whether it would be 11:04:54AM**
 17 **appropriate -- 11:04:56AM**
 18 MR. NOVIKOFF: Objection. 11:04:56AM
 19 BY MR. GOODSTADT: 11:04:57AM
 20 **Q -- to have a dock master dispatch 11:04:57AM**
 21 **outside of an emergency. 11:04:59AM**
 22 MR. NOVIKOFF: Objection. 11:05:02AM
 23 A It's tough answering the phones. It 11:05:03AM
 24 really didn't matter. 11:05:05AM
 25 **Q What do you mean? 11:05:06AM**

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1 GEORGE HESSE
 2 A Just somebody answering the phones. 11:05:08AM
 3 **Q A dock master is trained to dispatch? 11:05:10AM**
 4 A No. 11:05:14AM
 5 **Q A dock master is certified by Civil 11:05:15AM**
 6 **Service to be on a dispatch position? 11:05:18AM**
 7 A I don't think there's really a 11:05:22AM
 8 certification for it, but no. 11:05:23AM
 9 **Q Did Carter complain to you Labor Day 11:05:31AM**
 10 **weekend 2005 that officers were drinking in the 11:05:34AM**
 11 **bar? 11:05:37AM**
 12 A Did he complain? I don't recall any 11:05:39AM
 13 complaint, no. 11:05:41AM
 14 MR. NOVIKOFF: I'm sorry, what 11:05:42AM
 15 weekend? 11:05:43AM
 16 MR. GOODSTADT: Labor Day 2005. 11:05:44AM
 17 MR. NOVIKOFF: Okay. 11:05:47AM
 18 BY MR. GOODSTADT: 11:05:47AM
 19 **Q Did Kevin Lamm ever complain to you 11:05:52AM**
 20 **that officers were drinking in the bar? 11:05:54AM**
 21 MR. NOVIKOFF: Objection. Asked and 11:05:57AM
 22 answered. 11:05:58AM
 23 MR. CONNOLLY: Objection. 11:05:58AM
 24 A No. 11:05:59AM
 25 **Q Did Lamm ever complain to you about 11:05:59AM**

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1 GEORGE HESSE
 2 **officers drinking whether it was in the bars or 11:06:01AM**
 3 **the station or anywhere else? 11:06:04AM**
 4 A He never complained to me about that 11:06:05AM
 5 stuff, no. 11:06:07AM
 6 **Q Did any officers ever drink while off 11:06:11AM**
 7 **duty prior to going on shift? 11:06:15AM**
 8 MR. NOVIKOFF: Objection. Foundation. 11:06:18AM
 9 A I don't know. 11:06:20AM
 10 **Q So you're not aware of any officers 11:06:21AM**
 11 **drinking in the bar and then going on the eight 11:06:22AM**
 12 **to four? 11:06:24AM**
 13 MR. NOVIKOFF: Note my objection. 11:06:25AM
 14 A No. 11:06:26AM
 15 MR. NOVIKOFF: Unless he's present or 11:06:28AM
 16 was told, I don't know how he would answer 11:06:29AM
 17 that question. 11:06:31AM
 18 MR. GOODSTADT: Maybe he was answered 11:06:32AM
 19 or told. 11:06:35AM
 20 MR. NOVIKOFF: Ask that question. 11:06:37AM
 21 That's my objection. 11:06:37AM
 22 MR. GOODSTADT: If he's aware of it, 11:06:37AM
 23 that would be a way he's aware of it. Maybe 11:06:37AM
 24 he's aware of it some other way. I want to 11:06:37AM
 25 know if he's aware of it. 11:06:40AM

12 (Pages 346 to 349)

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1 GEORGE HESSE
 2 BY MR. GOODSTADT: 11:06:42AM
 3 Q Did anyone ever complain to you about 11:06:42AM
 4 officers drinking in bars and then going on the 11:06:44AM
 5 eight-to-four shift? 11:06:48AM
 6 A Never. 11:06:49AM
 7 MR. NOVIKOFF: Eight to four would 11:06:51AM
 8 just be eight at night to four in the 11:06:52AM
 9 morning, right? 11:06:55AM
 10 MR. GOODSTADT: Eight in the 11:06:56AM
 11 morning till -- who were drinking at night, 11:06:56AM
 12 getting on the eight in the morning shift 11:06:58AM
 13 and getting on tour. 11:07:00AM
 14 MR. NOVIKOFF: Got it. Okay. I just 11:07:01AM
 15 wanted to clarify. 11:07:01AM
 16 MR. CONNOLLY: Why don't we reask the 11:07:01AM
 17 question. 11:07:03AM
 18 BY MR. GOODSTADT: 11:07:03AM
 19 Q Did anyone ever complain to you that 11:07:04AM
 20 officers were going out and drinking and then 11:07:07AM
 21 working the 8 a.m. to 4 p.m. shift? 11:07:08AM
 22 A No. 11:07:11AM
 23 Q What was done with beer that was 11:07:16AM
 24 confiscated at Ocean Beach? 11:07:19AM
 25 A What was done with it? Most of the 11:07:22AM

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1 GEORGE HESSE
 2 time it would just sit -- it depended on how 11:07:25AM
 3 much was taken, I guess, but most of the time it 11:07:28AM
 4 would just sit in the station house. 11:07:31AM
 5 Q Was there a process by which the beer 11:07:33AM
 6 would have to be either, you know, memorialized 11:07:36AM
 7 that beer had been taken or any evidence or 11:07:44AM
 8 anything else that would have to be done with 11:07:47AM
 9 the beer? 11:07:49AM
 10 MR. NOVIKOFF: Object to the form. 11:07:50AM
 11 MR. CONNOLLY: Objection to form. 11:07:52AM
 12 A I don't think there was anything in 11:07:53AM
 13 place that really said what we had to do with 11:07:55AM
 14 it. 11:07:58AM
 15 Q Was it appropriate for officers to 11:08:00AM
 16 drink beer that was confiscated? 11:08:01AM
 17 A Sometimes we did. 11:08:04AM
 18 Q So you've drank beer that was 11:08:06AM
 19 confiscated? 11:08:08AM
 20 A Stuff that was in the refrigerator, I 11:08:09AM
 21 didn't know if it was confiscated or not. 11:08:11AM
 22 Q If it was confiscated, would it be 11:08:14AM
 23 appropriate to drink that beer? 11:08:17AM
 24 MR. NOVIKOFF: Objection to form. 11:08:19AM
 25 A It was disposed of. 11:08:19AM

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1 GEORGE HESSE
 2 Q That wasn't the question, sir. The 11:08:21AM
 3 question was whether it was appropriate to drink 11:08:23AM
 4 beer that was confiscated. 11:08:25AM
 5 MR. NOVIKOFF: Objection to form. 11:08:28AM
 6 A I don't know if it was appropriate. 11:08:29AM
 7 Q So as the chief of police, you don't 11:08:32AM
 8 have an opinion one way or the other? 11:08:34AM
 9 A At that time? 11:08:38AM
 10 Q Or as sergeant. As a sergeant of the 11:08:38AM
 11 Ocean Beach Police Department, you have no 11:08:40AM
 12 opinion or had no opinion one way or the other 11:08:42AM
 13 whether it was appropriate to drink beer that 11:08:47AM
 14 was confiscated? 11:08:49AM
 15 MR. NOVIKOFF: Objection. 11:08:50AM
 16 A I don't think -- no. 11:08:51AM
 17 Q It was not appropriate or it was 11:08:52AM
 18 appropriate? 11:08:54AM
 19 MR. NOVIKOFF: You asked if he had an 11:08:55AM
 20 opinion, and he said no. 11:08:56AM
 21 BY MR. GOODSTADT: 11:08:57AM
 22 Q So you don't have an opinion one way 11:08:58AM
 23 or the other? 11:09:00AM
 24 A I really don't, no. 11:09:01AM
 25 Q Did you ever drink beer that you knew 11:09:02AM

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1 GEORGE HESSE
 2 was confiscated? 11:09:04AM
 3 A I believe I did, yeah. 11:09:06AM
 4 Q Did you ever tell any of the 11:09:07AM
 5 plaintiffs what brands of beer to confiscate? 11:09:08AM
 6 A No. 11:09:11AM
 7 Q Do you know whether any officers told 11:09:11AM
 8 the plaintiffs what brands of beer to 11:09:13AM
 9 confiscate? 11:09:15AM
 10 A No. 11:09:16AM
 11 Q Have you ever disciplined or 11:09:24AM
 12 reprimanded any officers for drinking on duty? 11:09:26AM
 13 MR. NOVIKOFF: Objection. 11:09:30AM
 14 A No. 11:09:31AM
 15 Q Have you ever disciplined or 11:09:31AM
 16 reprimanded any officers for drinking off duty 11:09:33AM
 17 in Ocean Beach? 11:09:36AM
 18 MR. NOVIKOFF: Objection. 11:09:38AM
 19 A Not that I recall any, no. 11:09:38AM
 20 Q Did you ever tell officers that it was 11:09:44AM
 21 inappropriate to drink in the bars while off 11:09:47AM
 22 duty? 11:09:50AM
 23 MR. NOVIKOFF: Objection. Form. 11:09:51AM
 24 Foundation. 11:09:52AM
 25 A I don't recall. I may have. I don't 11:09:53AM

13 (Pages 350 to 353)

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1 GEORGE HESSE
2 know. 11:09:55AM
3 **Q What's in a rocket fuel? 11:10:06AM**
4 A It's a souped-up pina colada. I 11:10:09AM
5 believe it has -- it has some rum in it. It has 11:10:17AM
6 151 rum in it, and I believe it's topped 11:10:20AM
7 off with, I believe, amaretto. I'm not really 11:10:22AM
8 sure. 11:10:26AM
9 **Q Did you ever collect money from other 11:10:27AM**
10 **officers to pay for the rocket fuels? 11:10:29AM**
11 A Not that I recall. 11:10:31AM
12 **Q Is there any policy in Ocean Beach or 11:10:36AM**
13 **in the police department with respect to 11:10:39AM**
14 **drinking alcohol in the police truck? 11:10:41AM**
15 MR. NOVIKOFF: Objection. 11:10:44AM
16 A No. 11:10:46AM
17 **Q So it was okay for officers to drink 11:10:48AM**
18 **in the police truck? 11:10:50AM**
19 MR. NOVIKOFF: Objection. Is that a 11:10:52AM
20 question or a statement? 11:10:54AM
21 MR. GOODSTADT: I asked was it okay -- 11:10:56AM
22 MR. NOVIKOFF: Well, objection to 11:10:58AM
23 form. 11:10:59AM
24 MR. GOODSTADT: -- for officers to 11:10:59AM
25 drink in the police truck. 11:11:01AM

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1 GEORGE HESSE
2 MR. NOVIKOFF: Okay. 11:11:03AM
3 A No. 11:11:03AM
4 **Q How about if they're off duty on their 11:11:04AM**
5 **way to the lighthouse, would it be appropriate 11:11:07AM**
6 **for an officer to have a drink in the police 11:11:09AM**
7 **truck? 11:11:12AM**
8 MR. NOVIKOFF: Objection. 11:11:13AM
9 A No, not really. 11:11:13AM
10 **Q Did you ever speak to any officers 11:11:14AM**
11 **about that? 11:11:16AM**
12 A No. 11:11:16AM
13 **Q Any of the plaintiffs ever complain to 11:11:17AM**
14 **you that officers were drinking in the police 11:11:18AM**
15 **truck? 11:11:21AM**
16 A No. 11:11:21AM
17 **Q Any of the plaintiffs ever complain to 11:11:22AM**
18 **you that they had to clean up the police truck 11:11:24AM**
19 **with beer bottles, caps and other refuse from 11:11:27AM**
20 **alcoholic beverages? 11:11:32AM**
21 A Never. 11:11:34AM
22 **Q Was it appropriate for police officers 11:11:37AM**
23 **to drink in the barracks? 11:11:40AM**
24 MR. NOVIKOFF: Objection. 11:11:42AM
25 A Yes. 11:11:44AM

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1 GEORGE HESSE
2 **Q It was appropriate? 11:11:45AM**
3 A Sure. 11:11:46AM
4 **Q Is there any policy with respect to 11:11:48AM**
5 **drinking in the barracks? 11:11:50AM**
6 MR. NOVIKOFF: Objection. 11:11:52AM
7 A No. 11:11:52AM
8 MR. CONNOLLY: Again, are we making a 11:11:53AM
9 distinction between off duty and on duty? 11:11:55AM
10 BY MR. GOODSTADT: 11:11:58AM
11 **Q Well, on duty, was it appropriate to 11:11:58AM**
12 **drink in the barracks? 11:12:00AM**
13 A No. 11:12:01AM
14 **Q How about before your tour, was it 11:12:01AM**
15 **appropriate to drink in the barracks? 11:12:04AM**
16 MR. NOVIKOFF: Objection. 11:12:06AM
17 A I'd say no. 11:12:07AM
18 MR. NOVIKOFF: When you say before 11:12:09AM
19 tour, you mean within a few hours. 11:12:10AM
20 MR. GOODSTADT: Yeah, within a few 11:12:12AM
21 hours of your tour. 11:12:14AM
22 BY MR. GOODSTADT: 11:12:15AM
23 **Q Was it appropriate to have any 11:12:15AM**
24 **alcoholic beverages within a few hours of your 11:12:17AM**
25 **tour? 11:12:19AM**

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1 GEORGE HESSE
2 MR. NOVIKOFF: Objection. 11:12:20AM
3 A My opinion is no. 11:12:20AM
4 **Q Were there any policies with respect 11:12:23AM**
5 **to drinking before coming on duty? 11:12:25AM**
6 MR. NOVIKOFF: Note my objection. 11:12:29AM
7 A There were no policies. 11:12:30AM
8 **Q If you turn to Hesse 10, Page 7 of the 11:12:31AM**
9 **book, Bates Number 11. 11:12:40AM**
10 MR. NOVIKOFF: Okay. 11:12:42AM
11 BY MR. GOODSTADT: 11:12:48AM
12 **Q Do you see under "substance abuse"? 11:12:49AM**
13 A Yes, I do. 11:12:51AM
14 **Q It says, "Incorporated Village of 11:12:52AM**
15 **Ocean Beach will not tolerate any substance 11:12:52AM**
16 **abuse on its premises. Any employee reporting 11:12:56AM**
17 **for work under the influence of alcohol or 11:13:00AM**
18 **controlled drugs will be asked to leave 11:13:03AM**
19 **immediately." 11:13:06AM**
20 **Do you see that? 11:13:06AM**
21 A Yes. 11:13:07AM
22 **Q Did you ever ask any officers who 11:13:07AM**
23 **reported under the influence of alcohol to 11:13:09AM**
24 **leave? 11:13:11AM**
25 MR. NOVIKOFF: Objection. Foundation. 11:13:12AM

14 (Pages 354 to 357)

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1 GEORGE HESSE
2 I don't think that he's testified that there 11:13:13AM
3 were ever officers that reported under the 11:13:15AM
4 influence. 11:13:16AM
5 A Yeah, I believe I was asked that 11:13:18AM
6 question, and no. 11:13:20AM
7 MR. GOODSTADT: Could I just see that 11:13:35AM
8 question back. 11:13:36AM
9 BY MR. GOODSTADT: 11:13:46AM
10 Q Did Tom Snyder ever complain to you 11:13:47AM
11 that officers were coming out to the checkpoint 11:13:48AM
12 late when he had to come in for his shift? 11:13:53AM
13 A No. 11:13:57AM
14 Q Were firearms kept in the barracks? 11:14:05AM
15 A I believe sometimes, yes. 11:14:08AM
16 Q Okay. So even though firearms were 11:14:11AM
17 kept in the barracks, you thought it was 11:14:13AM
18 appropriate for officers to drink in the 11:14:15AM
19 barracks? 11:14:17AM
20 MR. NOVIKOFF: Objection to the form 11:14:18AM
21 of the question. 11:14:18AM
22 A Sure. 11:14:19AM
23 Q Did any of the plaintiffs ever 11:14:31AM
24 complain to you that the barracks were unsecure? 11:14:33AM
25 A Unsecure in what manner? 11:14:39AM

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1 GEORGE HESSE
2 Q Door unlocked? 11:14:44AM
3 A Yeah, I believe I had one complaint. 11:14:47AM
4 Q Who complained about that? 11:14:50AM
5 A I think it was Nofi, Joe Nofi, Tom 11:14:52AM
6 Snyder. I believe there was a dock master up 11:14:56AM
7 there that left the door unlocked once. 11:14:58AM
8 Q When was that? 11:15:01AM
9 A I don't recall the year or time frame. 11:15:01AM
10 Q And it was Nofi and Snyder who 11:15:03AM
11 complained? 11:15:05AM
12 A Yeah. I believe so, yeah. 11:15:06AM
13 Q What did they state in their 11:15:08AM
14 complaint? 11:15:09AM
15 A I believe that they said Dock Master 11:15:09AM
16 Hirsch, if I'm remembering his name correctly, 11:15:13AM
17 may have left the door open or unlocked. 11:15:17AM
18 Q Did you do anything to discipline 11:15:22AM
19 Hirsch in response to that complaint? 11:15:26AM
20 MR. NOVIKOFF: Objection to form. 11:15:28AM
21 A I don't recall a conversation I had 11:15:30AM
22 with him, but dock masters were banned from the 11:15:31AM
23 barracks after that point. 11:15:34AM
24 Q So prior to that point, they weren't 11:15:36AM
25 banned; after that point, they were banned? 11:15:39AM

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1 GEORGE HESSE
2 A That's correct. 11:15:41AM
3 Q And banning them, was that in response 11:15:42AM
4 to the complaint by Snyder and Nofi? 11:15:44AM
5 A Yes. 11:15:46AM
6 Q Did Carter ever complain to you about 11:15:46AM
7 the barracks being unsecured? 11:15:48AM
8 A Not that I'm aware of, no. 11:15:50AM
9 Q Nofi and Snyder's complaint, was that 11:15:52AM
10 in writing or verbal? 11:15:55AM
11 A I believe it was in writing. 11:15:57AM
12 Q And it's your testimony that Carter 11:15:59AM
13 never complained about that? 11:16:00AM
14 A Not that I'm aware of, that I recall. 11:16:01AM
15 MR. GOODSTADT: Let's mark this, 11:16:13AM
16 please. 11:16:14AM
17 (Whereupon, Bates document 2750 was 11:16:15AM
18 marked as Plaintiff's Exhibit 11 for 11:16:15AM
19 identification, as of this date.) 11:16:15AM
20 MR. GOODSTADT: I've placed in front 11:16:48AM
21 of Mr. Hesse what's been marked as Hesse 11. 11:16:49AM
22 It is a one-page document bearing Bates 11:16:52AM
23 Number 2750. (Handing.) 11:16:54AM
24 BY MR. GOODSTADT: 11:16:57AM
25 Q Mr. Hesse, do you recognize this 11:16:57AM

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1 GEORGE HESSE
2 document marked as Hesse 11? 11:16:59AM
3 A Actually, I don't -- I recognize it, 11:17:01AM
4 but I don't recall it. 11:17:02AM
5 Q What do you recognize this as? 11:17:05AM
6 A As an Ocean Beach Police Department 11:17:07AM
7 internal correspondence, a 2042. 11:17:10AM
8 Q And this doesn't refresh your 11:17:14AM
9 recollection as to whether Carter complained to 11:17:16AM
10 you about the barracks being unsecure? 11:17:19AM
11 MR. CONNOLLY: Objection. 11:17:22AM
12 MR. NOVIKOFF: Yeah. 11:17:24AM
13 A Yeah, I don't recall this document. 11:17:25AM
14 MR. CONNOLLY: Also, this appears to 11:17:31AM
15 be a field report of some sort, not a 11:17:32AM
16 complaint. 11:17:34AM
17 MR. GOODSTADT: Okay. 11:17:36AM
18 MR. NOVIKOFF: Well, I guess the 11:17:37AM
19 definition of complaint is what we're going 11:17:38AM
20 to be debating in the summary judgment 11:17:39AM
21 motion. 11:17:41AM
22 THE WITNESS: And it's not signed 11:17:42AM
23 either. So I don't know where it came from. 11:17:44AM
24 MR. NOVIKOFF: This establishes that 11:17:51AM
25 they knew how to write complaints. 11:17:53AM

15 (Pages 358 to 361)

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1 GEORGE HESSE
2 BY MR. GOODSTADT: 11:18:05AM
3 **Q Did you ever direct any of the 11:18:11AM**
4 **plaintiffs to drive you on social visits in the 11:18:12AM**
5 **village while you were on duty? 11:18:19AM**
6 A No. 11:18:21AM
7 **Q Did you ever direct plaintiffs to 11:18:22AM**
8 **drive any off-duty officers while they were in 11:18:23AM**
9 **the village? 11:18:27AM**
10 MR. NOVIKOFF: Objection to form. 11:18:32AM
11 A What? 11:18:32AM
12 **Q Did you ever direct plaintiffs to 11:18:33AM**
13 **drive any off-duty officers to the checkpoint? 11:18:35AM**
14 A Yes. 11:18:38AM
15 MR. NOVIKOFF: Objection to form. 11:18:39AM
16 The answer was yes? 11:18:40AM
17 THE WITNESS: Yes. 11:18:42AM
18 BY MR. GOODSTADT: 11:18:43AM
19 **Q While they were on duty, the 11:18:44AM**
20 **plaintiffs? 11:18:45AM**
21 MR. NOVIKOFF: Is the question did he 11:18:46AM
22 ever direct plaintiffs while on duty to 11:18:46AM
23 drive off-duty police officers to the 11:18:48AM
24 checkpoint? 11:18:51AM
25 MR. GOODSTADT: Yes. 11:18:51AM

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1 GEORGE HESSE
2 MR. NOVIKOFF: Objection to form. 11:18:53AM
3 A I may have, yes. 11:18:53AM
4 **Q Did you ever direct them to drive 11:18:55AM**
5 **off-duty officers after they came out of the 11:18:56AM**
6 **bars drinking to the checkpoint while the 11:19:00AM**
7 **plaintiffs were on duty? 11:19:04AM**
8 MR. NOVIKOFF: Objection to form and 11:19:06AM
9 foundation. 11:19:06AM
10 A I may have. 11:19:07AM
11 **Q You don't recall one way or the other? 11:19:08AM**
12 A Specifically, no. 11:19:10AM
13 **Q Did plaintiffs ever complain to you 11:19:11AM**
14 **about having to do that? 11:19:13AM**
15 A No. 11:19:14AM
16 **Q Plaintiffs ever complain to you that 11:19:14AM**
17 **they were leaving the village short on officers 11:19:16AM**
18 **when they had to drive out to the checkpoint to 11:19:18AM**
19 **drive off-duty officers who had been drinking to 11:19:21AM**
20 **the checkpoint? 11:19:23AM**
21 A Never. 11:19:25AM
22 **Q Did you ever direct Joe Nofi to take 11:19:30AM**
23 **Walter Moeller, Walter Moeller's girlfriend and 11:19:33AM**
24 **their dog to the checkpoint after they'd been 11:19:38AM**
25 **drinking? 11:19:41AM**

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1 GEORGE HESSE
2 A I don't recall that. 11:19:42AM
3 MR. NOVIKOFF: Is the dog the problem? 11:19:47AM
4 MR. GOODSTADT: No, it's leaving the 11:19:48AM
5 village unsecure is the problem. 11:19:49AM
6 MR. NOVIKOFF: Oh, okay. 11:19:52AM
7 BY MR. GOODSTADT: 11:19:59AM
8 **Q Did Ed Carter ever complain to you the 11:20:00AM**
9 **village was left short of personnel when he was 11:20:02AM**
10 **required to chauffeur intoxicated off-duty 11:20:05AM**
11 **officers? 11:20:09AM**
12 MR. NOVIKOFF: Objection -- no, no 11:20:10AM
13 objection. 11:20:12AM
14 A He's never complained, no. 11:20:13AM
15 **Q Did you ever require off-duty officers 11:20:16AM**
16 **to wait until 5 a.m. to be taken to the 11:20:23AM**
17 **checkpoint? 11:20:28AM**
18 A I have done that, yes. 11:20:28AM
19 **Q When was -- strike that. 11:20:30AM**
20 **Was that a policy that you instituted 11:20:32AM**
21 **at some point? 11:20:34AM**
22 A No. 11:20:35AM
23 **Q And why did you require people to wait 11:20:36AM**
24 **until 5 a.m. to be taken to the checkpoint? 11:20:39AM**
25 A It may have been a busy night and 11:20:43AM

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1 GEORGE HESSE
2 instead of taking one of my police officers and 11:20:45AM
3 sending them on a -- you know, out of the 11:20:48AM
4 village for a little while, I would let them 11:20:51AM
5 wait until we were making our relief, and they 11:20:53AM
6 could wait until our relief time. 11:20:56AM
7 **Q What do you mean by "our relief time"? 11:20:58AM**
8 A When guys were going off duty, they 11:21:01AM
9 could wait for the officers who were driving off 11:21:03AM
10 to go off duty. 11:21:07AM
11 **Q And the request to require the police 11:21:11AM**
12 **officers to wait until 5 a.m. to be driven off, 11:21:16AM**
13 **it's your testimony that was in response to 11:21:20AM**
14 **Carter complaining about having to drive 11:21:22AM**
15 **intoxicated officers off duty -- 11:21:26AM**
16 A No. 11:21:29AM
17 **Q -- off the island? 11:21:29AM**
18 A No. 11:21:32AM
19 **Q It's your testimony that Carter on the 11:21:44AM**
20 **July 4th weekend 2005 didn't complain to you 11:21:46AM**
21 **about being required to chauffeur civilians 11:21:50AM**
22 **around while he was on duty? 11:21:53AM**
23 MR. NOVIKOFF: I don't know. I don't 11:21:55AM
24 think he's testified to that around yet. 11:21:56AM
25 Objection to form. 11:21:58AM

16 (Pages 362 to 365)

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1 GEORGE HESSE
2 A Chauffeur civilians around? I don't 11:22:01AM
3 know what you're talking about. I don't recall 11:22:04AM
4 that. 11:22:05AM
5 Q Did Carter ever complain to you that 11:22:05AM
6 he was required to chauffeur civilians around 11:22:07AM
7 and it left the village shorthanded? 11:22:07AM
8 MR. NOVIKOFF: Objection. Form. 11:22:10AM
9 A No. 11:22:11AM
10 Q Did you ever put Carter on the back 11:22:12AM
11 streets to patrol? 11:22:14AM
12 A I'm sure he's done that, yes. 11:22:16AM
13 Q Is being put on the back streets a 11:22:18AM
14 form of discipline? 11:22:21AM
15 A No. 11:22:22AM
16 Q How do you determine who patrols the 11:22:27AM
17 back streets? 11:22:30AM
18 A Sometimes I would ask for volunteers. 11:22:32AM
19 Q How else? 11:22:35AM
20 A Sometimes I would just post you there. 11:22:37AM
21 Q Was the back streets a less desirable 11:22:39AM
22 post than the other areas of the village? 11:22:41AM
23 MR. CONNOLLY: Objection. 11:22:44AM
24 A In my opinion, yeah. 11:22:45AM
25 Q Did you ever require Frank Fiorillo 11:22:50AM

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1 GEORGE HESSE
2 while he was on duty to drive you to Mitch 11:22:52AM
3 Burns' house? 11:22:54AM
4 A Not that I recall. 11:22:55AM
5 Q Who's Mitch Burns? 11:22:56AM
6 A Just a homeowner in the village. 11:22:58AM
7 Q You're friends with Mr. Burns? 11:23:00AM
8 A I'm an acquaintance. 11:23:02AM
9 Q Have you ever been over his house? 11:23:03AM
10 A Yeah. 11:23:05AM
11 Q In the village? 11:23:06AM
12 A Yeah. 11:23:07AM
13 Q Where's his house located in the 11:23:08AM
14 village? 11:23:10AM
15 A It's on Evergreen Walk. 11:23:10AM
16 Q How many times have you been to his 11:23:13AM
17 house? 11:23:15AM
18 A A handful of times. 11:23:16AM
19 Q How many is a handful? 11:23:17AM
20 A Five, six times. I don't know. 11:23:19AM
21 Q Were any of those five or six times on 11:23:21AM
22 police business? 11:23:23AM
23 A Yeah. 11:23:24AM
24 Q What did you go to his house on police 11:23:26AM
25 business for? 11:23:28AM

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1 GEORGE HESSE
2 A I've been to his house for a noise 11:23:29AM
3 complaint or two. 11:23:31AM
4 Q Did you ever issue him a summons? 11:23:32AM
5 A No. 11:23:34AM
6 Q Did you ever issue a noise complaint 11:23:38AM
7 summons to anyone in the village? 11:23:40AM
8 A Oh, sure. 11:23:43AM
9 Q And why didn't you issue a summons to 11:23:44AM
10 Mitch Burns for the couple times that you were 11:23:47AM
11 called to his house for a noise violation? 11:23:49AM
12 A I don't think it required a summons. 11:23:52AM
13 Q What do you mean by that? 11:23:53AM
14 A It wasn't as loud as it would normally 11:23:55AM
15 be to require a summons. 11:24:00AM
16 Q Is there a certain decibel level or 11:24:02AM
17 something that requires a summons? 11:24:06AM
18 A You could judge it by that, but no. 11:24:08AM
19 Q Did you judge it that way? 11:24:10AM
20 A It's a matter of discretion. No, I 11:24:12AM
21 didn't judge it by decibel levels. 11:24:15AM
22 Q Have you ever been at his house on 11:24:24AM
23 non-police business? 11:24:26AM
24 A Yes. 11:24:28AM
25 Q How many times? 11:24:29AM

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1 GEORGE HESSE
2 A Couple times. 11:24:31AM
3 Q How many is a couple? 11:24:32AM
4 A Two, three times maybe. 11:24:34AM
5 Q And what were you at his house for on 11:24:37AM
6 non-police business? 11:24:39AM
7 A My wife and I was invited over for a 11:24:41AM
8 barbecue. 11:24:44AM
9 Q Two or three times? 11:24:45AM
10 A Yeah. 11:24:46AM
11 Q How about other than for a barbecue, 11:24:51AM
12 have you ever been over his house on non-police 11:24:53AM
13 business? 11:24:55AM
14 A Not that I recall. 11:24:56AM
15 Q Have you ever been to his apartment in 11:24:58AM
16 Manhattan? 11:25:02AM
17 A Yes. 11:25:03AM
18 Q How many times? 11:25:04AM
19 A Once. 11:25:05AM
20 Q On police business or non-police 11:25:06AM
21 business? 11:25:08AM
22 A Non-police business. 11:25:08AM
23 Q Where's his apartment in Manhattan 11:25:09AM
24 that you've been to? 11:25:12AM
25 A I don't know the exact address. 11:25:13AM

17 (Pages 366 to 369)

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1 GEORGE HESSE
2 Q Was it on the Upper East Side? 11:25:15AM
3 A It may have been. I don't know. 11:25:17AM
4 Q When were you at his apartment on 11:25:20AM
5 non-police business? 11:25:22AM
6 A It was around Christmastime, God, I 11:25:24AM
7 don't know, maybe 2003ish. 11:25:28AM
8 Q What were you at his apartment for? 11:25:31AM
9 A We were meeting he and his wife to go 11:25:33AM
10 to a show and then to get drinks afterwards. 11:25:37AM
11 MR. CONNOLLY: Who's "we"? 11:25:41AM
12 THE WITNESS: My wife and I and he and 11:25:42AM
13 his wife. 11:25:45AM
14 BY MR. GOODSTADT: 11:25:46AM
15 Q Was anybody else there? 11:25:46AM
16 A No. 11:25:48AM
17 Q What year was that? 11:25:49AM
18 A I don't really recall. 11:25:50AM
19 Q Did you go to a show with him and his 11:25:52AM
20 wife? 11:25:54AM
21 A Yes. 11:25:55AM
22 Q Did you guys go out drinking 11:25:55AM
23 afterwards? 11:25:57AM
24 A Yeah. 11:25:59AM
25 Q Did you ever tell Frank Fiorillo with 11:26:02AM

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1 GEORGE HESSE
2 respect to Mitch Burns' place in Ocean Beach 11:26:05AM
3 that whatever happens here between the drugs and 11:26:08AM
4 the girls, we look the other way? 11:26:12AM
5 A Never. 11:26:15AM
6 Q Is it true that you told officers that 11:26:19AM
7 you slept with Elyse Miller in Mitch Burns' hot 11:26:22AM
8 tub? 11:26:26AM
9 MR. NOVIKOFF: Objection. 11:26:28AM
10 A Never. 11:26:28AM
11 Q Did you ever sleep with Elyse Miller 11:26:29AM
12 in Mitch Burns' hot tub? 11:26:30AM
13 A Never. 11:26:33AM
14 Q Have you ever been over Mitch Burns' 11:26:33AM
15 house while Elyse Miller was there as well? 11:26:34AM
16 A Yes. 11:26:41AM
17 Q How many times? 11:26:42AM
18 A One time. 11:26:43AM
19 Q When was that? 11:26:43AM
20 A I don't recall. 11:26:44AM
21 Q How did you get home from there the 11:26:47AM
22 day that Elyse Miller was there? 11:26:49AM
23 A I don't know. I believe my wife and I 11:26:50AM
24 walked down Evergreen northbound to Bay Walk, 11:26:52AM
25 made a left and got on the ferry and went home. 11:26:57AM

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1 GEORGE HESSE
2 Q Did you ever have Frank Fiorillo pick 11:27:01AM
3 you up from Mitch Burns' house? 11:27:03AM
4 A Never. 11:27:06AM
5 Q Did you ever sleep over his apartment 11:27:14AM
6 in New York City? 11:27:16AM
7 A Never. 11:27:17AM
8 Q Do you know whether he's ever sold any 11:27:23AM
9 narcotics? 11:27:25AM
10 A I don't know. 11:27:26AM
11 Q Did you ever hear that he was selling 11:27:27AM
12 narcotics? 11:27:29AM
13 A No. 11:27:30AM
14 Q Did you ever hear he was selling 11:27:30AM
15 Fentanyl lollipops? 11:27:32AM
16 A No. I don't even know what that is. 11:27:34AM
17 Q Do you know what Fentanyl is? 11:27:36AM
18 A No. 11:27:39AM
19 Q Who is Andrea Nimburger? 11:27:40AM
20 A That's a woman who owns a house in the 11:27:42AM
21 village. 11:27:45AM
22 Q Where is her house in the village? 11:27:46AM
23 A I believe it's on Wilmot Walk, 11:27:48AM
24 W-I-L-M-O-T. 11:27:51AM
25 Q Have you ever been over her house? 11:28:00AM

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1 GEORGE HESSE
2 A Yes. 11:28:02AM
3 Q How many times? 11:28:02AM
4 A A handful of times. 11:28:03AM
5 Q Have you ever been over there on 11:28:05AM
6 non-police business? 11:28:07AM
7 A Yes. 11:28:10AM
8 Q How many times? 11:28:11AM
9 A Handful of times. 11:28:13AM
10 Q How many is a handful? 11:28:14AM
11 A Five or six. 11:28:16AM
12 Q What years did you go to her house on 11:28:18AM
13 non-police business? 11:28:21AM
14 A God, over 16 years, you know, I don't 11:28:23AM
15 know. 11:28:26AM
16 Q You don't know? 11:28:28AM
17 A Could be more than five or six times. 11:28:28AM
18 Q Did you ever require Frank Fiorillo to 11:28:31AM
19 take her -- take you to her house for non-police 11:28:32AM
20 business? 11:28:36AM
21 A Not that I recall, no. 11:28:37AM
22 Q Do you know her son, Andrea 11:28:41AM
23 Nimburger's son? 11:28:43AM
24 A Yeah. 11:28:45AM
25 Q Did you ever have a sexual 11:28:45AM

18 (Pages 370 to 373)

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1 **GEORGE HESSE**
2 **relationship with Andrea Nimbunger?** 11:28:47AM
3 MR. CONNOLLY: Objection. 11:28:49AM
4 A No. 11:28:50AM
5 **Q Isn't it true that you told Frank Fiorillo that you did?** 11:28:51AM
6 11:28:52AM
7 MR. CONNOLLY: Objection. 11:28:53AM
8 A No. 11:28:54AM
9 **Q It's not true?** 11:28:54AM
10 A It's not true. 11:28:55AM
11 **Q Is it true that Fiorillo complained to you that the village was being left short when he had to chauffeur you over there?** 11:28:58AM
12 11:29:00AM
13 11:29:03AM
14 A Never. 11:29:05AM
15 **Q Did you ever tell Ed Carter that you gave someone the, quote, German sausage?** 11:29:19AM
16 11:29:21AM
17 MR. CONNOLLY: Objection. 11:29:25AM
18 A Never. 11:29:25AM
19 **Q Did you ever use that phrase, German sausage?** 11:29:26AM
20 11:29:28AM
21 A Yes. 11:29:29AM
22 MR. NOVIKOFF: You mean from a deli? 11:29:30AM
23 A Yes, I have. 11:29:31AM
24 **Q What did you mean by German sausage?** 11:29:32AM
25 A I don't know. I read it in the 11:29:33AM

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1 **GEORGE HESSE**
2 newspaper in the Post, and so now I use it on a 11:29:36AM
3 regular basis. 11:29:37AM
4 **Q You use it on a regular basis?** 11:29:38AM
5 A Yeah, as a joke. 11:29:41AM
6 **Q Referring to what?** 11:29:41AM
7 A As the German sausage. 11:29:41AM
8 **Q What are you referring to as a German sausage?** 11:29:43AM
9 11:29:44AM
10 A I guess my penis. 11:29:44AM
11 MR. NOVIKOFF: I was thinking a 11:29:47AM
12 sandwich. Could be. 11:29:49AM
13 MR. GOODSTADT: I don't want to think 11:29:51AM
14 of anything. 11:29:51AM
15 BY MR. GOODSTADT: 11:30:10AM
16 **Q Did you ever refer to Kevin Lamm as being gay or homosexual?** 11:30:11AM
17 11:30:15AM
18 A I have not, no. 11:30:18AM
19 **Q Did you ever refer to Kevin Lamm as Kevina, either in writing or verbally?** 11:30:27AM
20 11:30:29AM
21 A Not that I recall, no. 11:30:35AM
22 **Q Did you ever refer to Kevin Lamm as his last name Lambo --** 11:30:36AM
23 11:30:38AM
24 A Oh, sure. 11:30:42AM
25 **Q -- either in writing or verbally?** 11:30:43AM

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1 **GEORGE HESSE**
2 A Verbal, yeah. 11:30:45AM
3 **Q Is that his nickname, Lambo?** 11:30:46AM
4 A Yeah. Lambo Rambo, yeah. 11:30:49AM
5 **Q Did you ever give him a business card that said Kevin Lambo?** 11:30:51AM
6 11:30:57AM
7 A No. 11:30:59AM
8 (Whereupon, Bates document P 925 was 11:31:10AM
9 marked as Plaintiff's Exhibit 12 for 11:31:10AM
10 identification, as of this date.) 11:31:10AM
11 BY MR. GOODSTADT: 11:31:34AM
12 **Q I've placed in front of Hesse what's been marked as Hesse 12. It's a one-page exhibit Bates numbered P 925. (Handing.)** 11:31:41AM
13 11:31:42AM
14 11:31:45AM
15 Mr. Hesse, have you ever seen what's 11:31:50AM
16 now been marked as Hesse 12? 11:31:52AM
17 A Yes. 11:31:54AM
18 **Q Where did you see this?** 11:31:55AM
19 A Actually, yesterday. One of the 11:31:56AM
20 documents I forgot that I reviewed with my 11:31:59AM
21 attorney, Mr. Connolly. 11:32:01AM
22 **Q Did you create this --** 11:32:03AM
23 A No. 11:32:05AM
24 **Q -- business card?** 11:32:05AM
25 **Did you ever create business cards on** 11:32:06AM

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1 **GEORGE HESSE**
2 **the police computer?** 11:32:08AM
3 A Yes. 11:32:09AM
4 **Q For other officers?** 11:32:10AM
5 A Everyone had access to it to make 11:32:12AM
6 whatever they wanted. 11:32:15AM
7 **Q My question is, did you ever make them for other officers?** 11:32:17AM
8 11:32:19AM
9 A I may have. 11:32:20AM
10 **Q You don't recall one way or the other?** 11:32:20AM
11 A I don't recall, no. 11:32:23AM
12 **Q Which computer do you make the business cards on?** 11:32:25AM
13 11:32:28AM
14 A They were made on one of the station 11:32:30AM
15 house computers way back then on a program. I 11:32:31AM
16 think it was Microsoft Publisher at the time. 11:32:34AM
17 **Q Who created the template for the Ocean Beach business card?** 11:32:39AM
18 11:32:43AM
19 A I may have. 11:32:44AM
20 **Q Is this the template for the Ocean Beach business card? The top half of this, is that the template?** 11:32:45AM
21 11:32:46AM
22 11:32:49AM
23 A It could've been back in the day. 11:32:51AM
24 This is old. 11:32:53AM
25 **Q So you don't recall one way or the** 11:32:54AM

19 (Pages 374 to 377)

Page 378

1 **GEORGE HESSE**
2 **other whether that was the template?** 11:32:56AM
3 A It may have been. 11:32:58AM
4 **Q And is that the phone number of the** 11:32:59AM
5 **station house?** 11:33:02AM
6 A No. 11:33:03AM
7 MR. CONNOLLY: When? 11:33:03AM
8 **Q Is that the address of the station** 11:33:05AM
9 **house?** 11:33:08AM
10 A Yes. 11:33:08AM
11 **Q Is that the fax number or was the fax** 11:33:09AM
12 **number of the station house?** 11:33:09AM
13 A It was, I guess, when 516 was the area 11:33:11AM
14 code. This is really old. 11:33:14AM
15 **Q And was that the telephone number?** 11:33:16AM
16 A Back in the day, yeah. 11:33:18AM
17 **Q Isn't it true that you handed this** 11:33:21AM
18 **card to Kevin Lamm?** 11:33:22AM
19 MR. NOVIKOFF: Objection. 11:33:24AM
20 A I didn't hand this to Kevin Lamm, no. 11:33:24AM
21 **Q Do you believe that Kevin Lamm is** 11:33:35AM
22 **homosexual?** 11:33:37AM
23 MR. NOVIKOFF: Objection. 11:33:38AM
24 MR. CONNOLLY: Objection. 11:33:39AM
25 MR. NOVIKOFF: Objection. 11:33:40AM

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1 **GEORGE HESSE**
2 MR. CONNOLLY: What's the relevance? 11:33:40AM
3 MR. GOODSTADT: Well, the relevance 11:33:42AM
4 is, you know -- 11:33:43AM
5 MR. NOVIKOFF: Are you making a claim 11:33:44AM
6 of discrimination based on sexual 11:33:45AM
7 orientation? 11:33:47AM
8 MR. GOODSTADT: No. We're making a 11:33:49AM
9 claim of defamation. We're making a claim 11:33:50AM
10 of slander. And if we have to amend the 11:33:52AM
11 complaint, we will. 11:33:55AM
12 MR. NOVIKOFF: I look forward to you 11:33:57AM
13 amending the complaint, obviously. 11:33:58AM
14 It's your witness. 11:34:01AM
15 MR. CONNOLLY: I agree, but you can 11:34:03AM
16 answer. 11:34:04AM
17 MR. GOODSTADT: And your objections, 11:34:05AM
18 as we've gone over thousands of times, 11:34:06AM
19 patently irrelevant, are reserved. 11:34:08AM
20 MR. NOVIKOFF: Sometimes yes, 11:34:12AM
21 sometimes no. 11:34:12AM
22 MR. CONNOLLY: If you have an opinion. 11:34:14AM
23 A I don't believe he is, but I don't 11:34:18AM
24 have an opinion, really. 11:34:19AM
25 **Q Did you ever call Kevin Lamm a rat?** 11:34:25AM

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1 **GEORGE HESSE**
2 A I may have. 11:34:28AM
3 **Q How many times?** 11:34:31AM
4 A I don't know. 11:34:32AM
5 **Q What's your understanding of what a** 11:34:35AM
6 **rat is in police terminology?** 11:34:36AM
7 MR. NOVIKOFF: Objection. 11:34:39AM
8 MR. CONNOLLY: In police terminology? 11:34:42AM
9 MR. GOODSTADT: Yeah. 11:34:44AM
10 BY MR. GOODSTADT: 11:34:44AM
11 **Q You know, when you call another police** 11:34:44AM
12 **officer a rat, what does that mean?** 11:34:46AM
13 MR. NOVIKOFF: Objection. 11:34:48AM
14 MR. CONNOLLY: Objection. 11:34:49AM
15 A It could be a tattletale. It could be 11:34:50AM
16 vermin, low, dirty down. You know. 11:34:53AM
17 **Q How about a mutt, did you ever use** 11:34:57AM
18 **that term?** 11:34:59AM
19 A Yes. 11:35:00AM
20 **Q What does a mutt mean?** 11:35:00AM
21 MR. NOVIKOFF: In police parlance? 11:35:04AM
22 MR. GOODSTADT: Yeah, in police 11:35:06AM
23 parlance. 11:35:07AM
24 MR. NOVIKOFF: Objection. 11:35:08AM
25 A Dirtbag. 11:35:09AM

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1 **GEORGE HESSE**
2 **Q Is it different than a rat?** 11:35:09AM
3 MR. NOVIKOFF: In police parlance? 11:35:12AM
4 MR. GOODSTADT: Yes. 11:35:14AM
5 MR. NOVIKOFF: Objection. 11:35:15AM
6 A I guess you could use it different 11:35:16AM
7 ways, but yes. They're a little different. 11:35:17AM
8 **Q In police parlance, what's the** 11:35:20AM
9 **difference between a rat and a mutt?** 11:35:22AM
10 MR. NOVIKOFF: Objection. 11:35:26AM
11 A To differentiate the difference, a rat 11:35:26AM
12 could be a tattletale. 11:35:27AM
13 **Q Right.** 11:35:29AM
14 A A rat could be just vermin. And a 11:35:30AM
15 mutt could just be a dirtbag. I don't know. 11:35:34AM
16 **Q When you say you could've called Kevin** 11:35:47AM
17 **Lamm a rat, is there any incident that you're** 11:35:49AM
18 **referring to?** 11:35:52AM
19 A I may have written something on the 11:35:52AM
20 blog or something like that. 11:35:54AM
21 **Q What did you write on the blog?** 11:35:56AM
22 A I don't know. I'd have to go through 11:35:58AM
23 the blog. 11:35:59AM
24 **Q Did you ever verbally call Kevin Lamm** 11:36:05AM
25 **a rat?** 11:36:07AM

20 (Pages 378 to 381)

Page 382

1 **GEORGE HESSE**

2 A Not that I recall, no. 11:36:08AM

3 **Q Do you recall what your posting name 11:36:19AM**

4 **was on the blog when you called Kevin Lamm a 11:36:21AM**

5 **rat? 11:36:24AM**

6 A Specifically, no. 11:36:24AM

7 **Q The last time you testified to four 11:36:25AM**

8 **names that thought that you used, Still 11:36:27AM**

9 **Employed, Still Employed 2, Dirty and Dirty 1. 11:36:29AM**

10 A Uh-huh. 11:36:32AM

11 **Q Any other names that you can think of 11:36:33AM**

12 **that you used on the blog? 11:36:35AM**

13 A There are others, but I don't recall 11:36:36AM

14 them at this time. 11:36:38AM

15 **Q Did you ever use Rat Hater? 11:36:48AM**

16 A I don't think so. 11:36:50AM

17 MR. NOVIKOFF: On the blog? 11:36:52AM

18 MR. GOODSTADT: On the blog. 11:36:53AM

19 BY MR. GOODSTADT: 11:36:55AM

20 **Q Did you ever use Forever Employed? 11:36:55AM**

21 A I don't know. I'd have to look at the 11:36:57AM

22 post. 11:36:59AM

23 **Q Did you ever use Guest with 15 ones 11:36:59AM**

24 **after it? 11:37:03AM**

25 A No, I don't think so. 11:37:04AM

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1 **GEORGE HESSE**

2 **Q Or just the handle just 15 ones? 11:37:04AM**

3 A No, I don't think so. 11:37:07AM

4 **Q Did you ever use Guest 11770 or just 11:37:08AM**

5 **the number 11770? 11:37:12AM**

6 A No. 11:37:16AM

7 **Q Did you use Free the Four? 11:37:16AM**

8 A I may have. 11:37:18AM

9 MR. NOVIKOFF: Is it Free T-H-E 11:37:24AM

10 F-O-U-R? 11:37:25AM

11 MR. GOODSTADT: Yes. 11:37:29AM

12 BY MR. GOODSTADT: 11:37:31AM

13 **Q Did you ever use Just the Facts Ma'am? 11:37:32AM**

14 A I don't think so, no. 11:37:34AM

15 **Q Did you ever use Your Turn Boys? 11:37:36AM**

16 A I don't think so. 11:37:38AM

17 **Q Did you ever use Misconduct? 11:37:39AM**

18 A No. 11:37:41AM

19 **Q Did you ever use Frank the Fag? 11:37:42AM**

20 A No. 11:37:44AM

21 **Q Did you ever use Miss You Guys? 11:37:44AM**

22 A No. 11:37:47AM

23 **Q Did you ever use Hate the Five? 11:37:48AM**

24 A I don't think so, no. 11:37:50AM

25 **Q Did you ever use On the Level? 11:37:52AM**

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1 **GEORGE HESSE**

2 A No. 11:37:54AM

3 **Q Did you ever use Man Up Jerk-offs? 11:37:55AM**

4 A No. 11:37:58AM

5 **Q Did you ever post -- 11:37:58AM**

6 MR. NOVIKOFF: On the blog? 11:38:00AM

7 MR. GOODSTADT: On the blog. 11:38:01AM

8 BY MR. GOODSTADT: 11:38:03AM

9 **Q Did you ever use no name and just post 11:38:03AM**

10 **without putting in a name? 11:38:07AM**

11 A I don't think it lets you do that, but 11:38:08AM

12 no. I don't think so, no. 11:38:10AM

13 **Q Have you ever seen Joe Nofi, Frank 11:38:17AM**

14 **Fiorillo or Kevin Lamm come into contact with 11:38:20AM**

15 **somebody who they did not beat up? 11:38:24AM**

16 A What? 11:38:27AM

17 MR. NOVIKOFF: Wait, wait. Hold on. 11:38:28AM

18 MR. CONNOLLY: Objection. 11:38:30AM

19 MR. NOVIKOFF: You know, that may not 11:38:30AM

20 be objectionable to form. I just want to 11:38:32AM

21 hear the question. 11:38:34AM

22 If you can repeat that back for me. 11:38:35AM

23 (Whereupon, the referred to portion 11:38:45AM

24 was read back by the court reporter: Have 11:38:45AM

25 you ever seen Joe Nofi, Frank Fiorillo or 11:38:45AM

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1 **GEORGE HESSE**

2 Kevin Lamm come into contact with somebody 11:38:45AM

3 who they did not beat up?) 11:38:45AM

4 MR. NOVIKOFF: You mean other than the 11:38:46AM

5 people at this table? 11:38:47AM

6 MR. GOODSTADT: While they were police 11:38:52AM

7 officers. 11:38:53AM

8 MR. CONNOLLY: That's a simple yes or 11:38:57AM

9 no. 11:38:59AM

10 THE WITNESS: Yeah, I know. I'm just 11:38:59AM

11 trying to figure that one out. 11:39:01AM

12 A Yeah, I guess. 11:39:03AM

13 **Q So a statement that the three of them 11:39:05AM**

14 **beat up everyone they came into contact with 11:39:08AM**

15 **would be false, correct? 11:39:11AM**

16 A Yeah. 11:39:14AM

17 **Q Did you ever state or insinuate on the 11:39:18AM**

18 **blog that any of the plaintiffs were gay or 11:39:20AM**

19 **homosexual? 11:39:23AM**

20 A I may have. 11:39:25AM

21 **Q Do you recall which plaintiff you 11:39:27AM**

22 **stated that about on the blog? 11:39:29AM**

23 A I don't recall. 11:39:31AM

24 **Q Was it Kevin Lamm? 11:39:33AM**

25 A I might have. 11:39:34AM

21 (Pages 382 to 385)

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1 GEORGE HESSE

2 **Q Frank Fiorillo?** 11:39:35AM

3 A I might have. 11:39:36AM

4 **Q Do you believe Frank Fiorillo to be** 11:39:38AM

5 **gay or homosexual?** 11:39:40AM

6 A Nah. 11:39:42AM

7 **Q Any other plaintiffs you insinuated** 11:39:46AM

8 **were gay or homosexual other than Mr. Fiorillo** 11:39:49AM

9 **or Mr. Lamm?** 11:39:52AM

10 A I'm sure all five of the plaintiffs at 11:39:54AM

11 some point. 11:39:56AM

12 **Q Do you believe that any of the five** 11:39:57AM

13 **plaintiffs are gay or homosexual?** 11:39:58AM

14 A No, I don't. 11:40:00AM

15 **Q Did you ever call any of the** 11:40:14AM

16 **plaintiffs a mutt?** 11:40:15AM

17 MR. NOVIKOFF: On the blog? 11:40:16AM

18 MR. GOODSTADT: At any point. On the 11:40:18AM

19 blog, off the blog, verbally, in writing. 11:40:20AM

20 A Yeah. 11:40:23AM

21 **Q When?** 11:40:24AM

22 A I don't recall. 11:40:25AM

23 MR. GOODSTADT: Mark that. 11:40:54AM

24 (Whereupon, picture of writing on the 11:40:56AM

25 wall was marked as Plaintiff's Exhibit 13 11:40:56AM

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1 GEORGE HESSE

2 for identification, as of this date.) 11:40:56AM

3 MR. GOODSTADT: I've placed in front 11:41:48AM

4 of Mr. Hesse what's now been marked as 11:41:49AM

5 Hesse 13. It is a two-page exhibit. I 11:41:51AM

6 don't believe it bears any Bates numbers. 11:41:55AM

7 BY MR. GOODSTADT: 11:41:57AM

8 **Q Mr. Hesse, have you ever seen the** 11:41:58AM

9 **first page of what's been marked as Hesse 13?** 11:42:00AM

10 A Yes. 11:42:03AM

11 **Q Okay. And what is this depicting?** 11:42:03AM

12 A I believe it was in our bathroom stall 11:42:05AM

13 in the police station on a wood wall that you 11:42:08AM

14 would face. If you were a man standing up and 11:42:13AM

15 urinating into the toilet, you could see 11:42:17AM

16 straight in front of you what was written on the 11:42:19AM

17 wall. 11:42:23AM

18 **Q Do you know who wrote this?** 11:42:23AM

19 A I have no idea. 11:42:24AM

20 **Q Did Snyder ever complain to you about** 11:42:25AM

21 **the first page of Hesse 13?** 11:42:27AM

22 A It was never complained, no. 11:42:29AM

23 **Q And were you the author of what's on** 11:42:34AM

24 **Hesse 13?** 11:42:37AM

25 A Absolutely not. 11:42:38AM

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1 GEORGE HESSE

2 **Q How about Page 2 of Hesse 13, did you** 11:42:38AM

3 **ever see this?** 11:42:41AM

4 A Yes. 11:42:42AM

5 **Q And was this -- where was this --** 11:42:43AM

6 **strike that.** 11:42:46AM

7 **What is Page 2 of Hesse 13?** 11:42:47AM

8 A Basically just what I described, same 11:42:51AM

9 exact thing in the same area, writing on the 11:42:53AM

10 wall in the bathroom. 11:42:56AM

11 **Q Were you the author of what's depicted** 11:42:58AM

12 **on the second page of Hesse 13?** 11:42:59AM

13 A Absolutely not, no. 11:43:01AM

14 **Q Do you know who wrote what was on the** 11:43:02AM

15 **second page of Hesse 13?** 11:43:04AM

16 A No, I don't. 11:43:05AM

17 **Q Did you ever speak to any of the** 11:43:07AM

18 **officers about marking up the walls in the** 11:43:09AM

19 **bathroom?** 11:43:11AM

20 A At some point, I believe I wrote on 11:43:15AM

21 the wall and said "stop writing on the wall," 11:43:17AM

22 and I told everybody to stop writing on the 11:43:19AM

23 wall. 11:43:22AM

24 **Q What do you mean, you wrote "stop** 11:43:22AM

25 **writing on the wall"? Was it a directive you** 11:43:22AM

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1 GEORGE HESSE

2 **posted or you actually wrote it --** 11:43:23AM

3 A No. I wrote it right underneath all 11:43:25AM

4 this stuff. I said, "Stop writing on the wall, 11:43:27AM

5 103." 11:43:31AM

6 **Q And who did you tell to stop writing** 11:43:32AM

7 **on the wall?** 11:43:32AM

8 A I believe I made a general statement 11:43:33AM

9 to everybody that was working in the department. 11:43:35AM

10 **Q Do you recall when that was?** 11:43:37AM

11 A I don't, no. 11:43:39AM

12 **Q And when was the two pictures that are** 11:43:39AM

13 **depicted in Hesse 13, when were those things** 11:43:43AM

14 **written on the wall?** 11:43:46AM

15 A You know, I don't know. I know -- I 11:43:47AM

16 believe Laminated and Snyderized was up for 11:43:50AM

17 quite a while. 11:43:56AM

18 **Q Did you ever take any steps to have it** 11:43:58AM

19 **removed?** 11:44:01AM

20 A Oh, I've removed it but, you know, not 11:44:01AM

21 then. 11:44:05AM

22 **Q I'm talking about then. Did you ever** 11:44:06AM

23 **take any steps to have it removed? You said it** 11:44:08AM

24 **was there quite a while.** 11:44:10AM

25 A Yeah. No. 11:44:12AM

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1 GEORGE HESSE
 2 MR. NOVIKOFF: Objection. That wasn't 11:44:13AM
 3 what you asked him when he responded "quite 11:44:14AM
 4 a while." Objection to form, but -- 11:44:17AM
 5 BY MR. GOODSTADT: 11:44:19AM
 6 **Q How long is quite a while? 11:44:19AM**
 7 MR. NOVIKOFF: He said he saw it quite 11:44:22AM
 8 a while ago, I believe. 11:44:23AM
 9 MR. GOODSTADT: Can you go back to the 11:44:26AM
 10 answer "quite a while." 11:44:27AM
 11 MR. CONNOLLY: Ask him. 11:44:29AM
 12 MR. GOODSTADT: I want to see what he 11:44:30AM
 13 said. 11:44:31AM
 14 BY MR. GOODSTADT: 11:45:01AM
 15 **Q You testified that it was up for quite 11:45:01AM**
 16 **a while. 11:45:03AM**
 17 A Uh-huh. 11:45:04AM
 18 MR. NOVIKOFF: I don't recall it that 11:45:05AM
 19 way, but it is what it is. 11:45:05AM
 20 MR. GOODSTADT: I have the transcript. 11:45:08AM
 21 You can play the video, if you want. 11:45:08AM
 22 MR. NOVIKOFF: I don't see a 11:45:15AM
 23 transcript. It's on the video. 11:45:15AM
 24 My objection stands. 11:45:15AM
 25

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1 GEORGE HESSE
 2 BY MR. GOODSTADT: 11:45:17AM
 3 **Q So during the -- strike that. 11:45:17AM**
 4 **What did you mean by quite a while, 11:45:19AM**
 5 **how long? 11:45:22AM**
 6 A I believe it was years. I believe 11:45:22AM
 7 that this stuff was on the wall for years. 11:45:24AM
 8 **Q And during those years, did you ever 11:45:27AM**
 9 **do anything to take it down other than for write 11:45:28AM**
 10 **"stop writing on the walls, 103"? 11:45:32AM**
 11 A No. 11:45:35AM
 12 **Q Did Kevin Lamm ever complain to you 11:45:36AM**
 13 **about Page 2 of Hesse 13? 11:45:37AM**
 14 A No. 11:45:42AM
 15 MR. GOODSTADT: I want to take a 11:45:55AM
 16 five-minute break here. 11:45:56AM
 17 MR. NOVIKOFF: You got it. 11:45:58AM
 18 THE VIDEOGRAPHER: The time is 11:47. 11:45:59AM
 19 We're off the record. 11:46:00AM
 20 (Whereupon, a discussion was held off 11:46:03AM
 21 the record.) 11:46:03AM
 22 THE VIDEOGRAPHER: The time is 12:04. 12:02:16PM
 23 We're on the record. 12:02:17PM
 24 BY MR. GOODSTADT: 12:02:20PM
 25 **Q Mr. Hesse, do you know who Frank 12:02:21PM**

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1 GEORGE HESSE
 2 **Tutone is? 12:02:24PM**
 3 A Yes. 12:02:25PM
 4 **Q Who is Frank Tutone? 12:02:25PM**
 5 A He's a local resident of Ocean Beach. 12:02:27PM
 6 **Q Have you ever been to Mr. Tutone's 12:02:34PM**
 7 **residence? 12:02:37PM**
 8 MR. CONNOLLY: In what capacity? 12:02:38PM
 9 MR. GOODSTADT: At any time. 12:02:40PM
 10 A Yes. 12:02:40PM
 11 **Q How many times have you been to his 12:02:42PM**
 12 **residence? 12:02:44PM**
 13 A Maybe four times. 12:02:47PM
 14 **Q Have you ever been there on non-police 12:02:49PM**
 15 **business? 12:02:51PM**
 16 A Never. 12:02:52PM
 17 **Q So all four times was on police 12:02:54PM**
 18 **business? 12:02:56PM**
 19 A Yes. 12:02:56PM
 20 **Q And what was the police business at 12:02:57PM**
 21 **Mr. Tutone's residence that you were there for? 12:02:59PM**
 22 A To arrest him. 12:03:02PM
 23 **Q All four times? 12:03:03PM**
 24 A I believe so, yes. 12:03:04PM
 25 **Q What was he arrested for? 12:03:05PM**

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1 GEORGE HESSE
 2 A Hmm, God, so many things. Aggravated 12:03:08PM
 3 harassment on several occasions. Domestic 12:03:11PM
 4 violence type stuff. 12:03:18PM
 5 **Q And domestic violence against whom? 12:03:27PM**
 6 A That would be his on-and-off 12:03:29PM
 7 girlfriend, Lisa Campbell. 12:03:32PM
 8 **Q Are you aware of a time where 12:03:38PM**
 9 **Ms. Campbell was in the station and Richard 12:03:42PM**
 10 **Bosetti was giving her wine to drink? 12:03:45PM**
 11 MR. NOVIKOFF: Objection to form. 12:03:53PM
 12 A You know, I don't know. I've heard 12:03:55PM
 13 the rumor, but I don't know for sure if that was 12:03:57PM
 14 true or not. 12:04:00PM
 15 **Q When did you hear that rumor? 12:04:01PM**
 16 A You know what, it may have been when 12:04:05PM
 17 this proceeding started. 12:04:08PM
 18 **Q You hadn't heard the rumor prior to 12:04:09PM**
 19 **the proceeding? 12:04:11PM**
 20 A No. Not that I'm aware of. 12:04:12PM
 21 **Q And if Mr. Bosetti had given her wine 12:04:16PM**
 22 **to drink while she was there to file a domestic 12:04:21PM**
 23 **violence complaint, would that have been 12:04:25PM**
 24 **appropriate? 12:04:28PM**
 25 MR. NOVIKOFF: Objection. 12:04:28PM

23 (Pages 390 to 393)

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1 GEORGE HESSE
2 A In my opinion, it's inappropriate. 12:04:29PM
3 **Q Inappropriate? 12:04:31PM**
4 A Yeah. 12:04:31PM
5 **Q It's something that would result in 12:04:32PM**
6 **discipline? 12:04:37PM**
7 MR. CONNOLLY: Objection. 12:04:38PM
8 MR. NOVIKOFF: Objection. Calls for 12:04:39PM
9 speculation. 12:04:39PM
10 A No. Not necessarily. 12:04:40PM
11 **Q What do you mean by not necessarily? 12:04:43PM**
12 A I would probably just advise him not 12:04:45PM
13 to do that again. 12:04:47PM
14 **Q Have you ever spoken to Richard 12:04:48PM**
15 **Bosetti about that incident? 12:04:50PM**
16 MR. NOVIKOFF: Foundation. 12:04:53PM
17 A I don't recall if I did or not. 12:04:54PM
18 **Q You don't recall one way or the other? 12:04:55PM**
19 A No. 12:04:56PM
20 **Q Have you ever spoken with anybody, 12:04:57PM**
21 **either former or current police officers at 12:04:59PM**
22 **Ocean Beach, with respect to that incident? 12:05:02PM**
23 A I don't recall if I did or not. 12:05:04PM
24 **Q So you don't know one way or the 12:05:05PM**
25 **other? 12:05:06PM**

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1 GEORGE HESSE
2 A No. 12:05:08PM
3 **Q Did you ever speak to Kenny Bockelman 12:05:09PM**
4 **about that incident? 12:05:12PM**
5 A You know, I don't recall. 12:05:14PM
6 **Q Do you know who Kenny Bockelman is? 12:05:15PM**
7 A Oh, sure. 12:05:17PM
8 **Q Who is that? 12:05:18PM**
9 A He's a current part-time seasonal 12:05:18PM
10 police officer. B-O-C-K-E-L-M-A-N. 12:05:21PM
11 **Q Have you ever disciplined Rich 12:05:49PM**
12 **Bosetti? 12:05:51PM**
13 A Yes. 12:05:51PM
14 **Q What did you discipline Rich Bosetti 12:05:52PM**
15 **for? 12:05:55PM**
16 A A couple of different things. One 12:05:55PM
17 time I felt that he wasn't getting to his post 12:06:01PM
18 in time, and we had a little bit of an argument. 12:06:04PM
19 So he was disciplined for that and sent home for 12:06:09PM
20 his tour of duty. I believe there was another 12:06:13PM
21 time where he was caught sleeping by the mayor. 12:06:15PM
22 He was disciplined by the mayor and then me, and 12:06:20PM
23 then he was sent home for the tour of duty. And 12:06:26PM
24 then he was pretty much not asked back for 12:06:29PM
25 employment proceeding that. 12:06:32PM

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1 GEORGE HESSE
2 **Q What was the incident about what you 12:06:37PM**
3 **guys had the argument over Bosetti not being at 12:06:40PM**
4 **his post on time? 12:06:43PM**
5 A That night, early morning we had a 12:06:45PM
6 huge fire. A building burnt to the ground. And 12:06:48PM
7 that morning I had to call extra personnel in to 12:06:52PM
8 relieve some of the officers that were on all 12:06:55PM
9 night long. They were soaking wet. They had 12:06:58PM
10 debris all over them. And I wanted him to get 12:07:02PM
11 to his post to relief one of those officers 12:07:05PM
12 to -- so they can go home, rest, change, shower, 12:07:09PM
13 whatever it is. And I left the scene to go to 12:07:14PM
14 the police station for something, paperwork or 12:07:18PM
15 something. And Rich Bosetti was sitting there 12:07:21PM
16 enjoying a cup of coffee and eating a bagel, and 12:07:24PM
17 I found that to be inappropriate under the 12:07:27PM
18 circumstances. 12:07:30PM
19 **Q When was that incident? 12:07:31PM**
20 A I don't recall the exact date. I'm 12:07:36PM
21 sure you could show me something that will help 12:07:38PM
22 me recollect. 12:07:42PM
23 **Q Do you know what year it was? 12:07:43PM**
24 A I believe it was 2007. It may have 12:07:44PM
25 been in June. June or July. I'm not real 12:07:48PM

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1 GEORGE HESSE
2 positive. 12:07:51PM
3 **Q And what was the incident where the 12:07:51PM**
4 **mayor caught him sleeping? 12:07:53PM**
5 A I don't recall the exact date, but I 12:07:57PM
6 came into work about, I don't know, 9:30ish, and 12:08:01PM
7 I believe I asked the dispatcher where everybody 12:08:07PM
8 was. Everybody was on patrol. And all of a 12:08:10PM
9 sudden, I guess Rich Bosetti just comes 12:08:13PM
10 strolling into the police station. And then I 12:08:16PM
11 get a phone call from the mayor that he wants to 12:08:18PM
12 see Rich Bosetti and myself in his office at 12:08:21PM
13 whatever time he designated, and we reported to 12:08:26PM
14 his office. 12:08:30PM
15 **Q Okay. When was that? 12:08:30PM**
16 A I don't remember the exact date of 12:08:32PM
17 that either. I believe it's written down in his 12:08:33PM
18 personnel file somewhere. 12:08:37PM
19 **Q And I believe you testified that he 12:08:38PM**
20 **was sent home on that tour? 12:08:40PM**
21 A Yes, eventually he was sent home for 12:08:42PM
22 tour of duty. 12:08:45PM
23 **Q Who made the decision to send him 12:08:46PM**
24 **home? 12:08:48PM**
25 A I did. 12:08:49PM

24 (Pages 394 to 397)

Page 398

1 GEORGE HESSE
 2 12:08:49PM
 3 **Q And then was his employment terminated 12:08:59PM**
 4 **after that? 12:09:01PM**
 5 A Yeah. There were no hours available 12:09:02PM
 6 for him. It was the end of the season. 12:09:04PM
 7 **Q What do you mean, yeah, but there were 12:09:07PM**
 8 **no hours available for him? 12:09:09PM**
 9 A I chose not to give him any more 12:09:11PM
 10 hours. 12:09:13PM
 11 **Q Who made that decision to end his 12:09:13PM**
 12 **employment? 12:09:15PM**
 13 A I did. 12:09:16PM
 14 **Q Did you have any -- did you have to 12:09:16PM**
 15 **get any approval to end his employment? 12:09:19PM**
 16 A No. 12:09:22PM
 17 **Q Did you seek anyone's approval to end 12:09:23PM**
 18 **his employment? 12:09:25PM**
 19 A I don't recall if I did. 12:09:26PM
 20 **Q Did you speak to anybody about that 12:09:27PM**
 21 **decision prior to implementing it? 12:09:29PM**
 22 A I don't recall if I did. 12:09:31PM
 23 **Q Do you recall, did you speak with Joe 12:09:32PM**
 24 **Loeffler about it? 12:09:35PM**
 25 A I may have. I don't recall. 12:09:36PM

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1 GEORGE HESSE
 2 **Q Did you speak to anyone in Civil 12:09:39PM**
 3 **Service about it? 12:09:41PM**
 4 A No. 12:09:44PM
 5 **Q At that time, did you have the 12:09:45PM**
 6 **authority to terminate his employment? 12:09:46PM**
 7 MR. NOVIKOFF: Objection. Form. 12:09:48PM
 8 A I believe I did. 12:09:50PM
 9 **Q And what's the basis of that belief? 12:09:54PM**
 10 A By my title and position. 12:09:56PM
 11 **Q Your title was at that time? 12:09:59PM**
 12 A Deputy acting -- acting -- who knows. 12:10:01PM
 13 MR. CONNOLLY: Deputy acting chief. 12:10:06PM
 14 A Deputy acting chief of police. 12:10:08PM
 15 **Q But you testified last time that you 12:10:10PM**
 16 **held yourself out to be chief, correct? 12:10:13PM**
 17 A Yes. 12:10:15PM
 18 MR. NOVIKOFF: Objection. 12:10:16PM
 19 BY MR. GOODSTADT: 12:10:17PM
 20 **Q So during that period time? 12:10:17PM**
 21 A 2007, no. Paradiso was still employed 12:10:19PM
 22 by the village, so I would be the deputy chief. 12:10:21PM
 23 **Q When did the change happen between 12:10:25PM**
 24 **deputy chief and chief? 12:10:27PM**
 25 A I believe he retired officially July 12:10:29PM

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1 GEORGE HESSE
 2 of 2008. 12:10:34PM
 3 **Q Did you need Paradiso's approval to 12:10:39PM**
 4 **terminate Mr. Bosetti's employment at that time? 12:10:42PM**
 5 A No. 12:10:46PM
 6 **Q Did you get his approval to terminate 12:10:46PM**
 7 **Mr. Bosetti's employment at that time? 12:10:49PM**
 8 MR. NOVIKOFF: Objection to form. 12:10:51PM
 9 A No. 12:10:52PM
 10 **Q Did you discuss the decision with 12:10:52PM**
 11 **Paradiso either before implementing it or after? 12:10:54PM**
 12 MR. NOVIKOFF: Objection to form. 12:10:57PM
 13 A No. 12:10:58PM
 14 **Q Sitting here today, you never 12:10:59PM**
 15 **discussed that incident or decision to terminate 12:11:01PM**
 16 **Rich Bosetti's employment with Chief Paradiso? 12:11:04PM**
 17 MR. NOVIKOFF: Objection to form. 12:11:08PM
 18 A No. 12:11:09PM
 19 **Q Now, there came a point in time where 12:11:35PM**
 20 **there was a -- I believe you called it a 12:11:39PM**
 21 **Halloween incident; is that correct? 12:11:40PM**
 22 A Yes. 12:11:41PM
 23 **Q And that was -- just so we're clear, 12:11:42PM**
 24 **that was the night of October 30th into the 12:11:44PM**
 25 **morning of October 31, 2004? 12:11:47PM**

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1 GEORGE HESSE
 2 A Yes. 12:11:50PM
 3 **Q Where did the Halloween incident take 12:11:51PM**
 4 **place? 12:11:53PM**
 5 A At a bar called Houser's. 12:11:53PM
 6 **Q Where is Houser's located? 12:11:56PM**
 7 A It's on Bay Walk, and it's between 12:11:57PM
 8 Ocean Breeze walk and Evergreen Walk. 12:12:02PM
 9 **Q Had you ever been in Houser's prior to 12:12:07PM**
 10 **the Halloween incident? 12:12:09PM**
 11 A Yes. 12:12:10PM
 12 **Q Had you ever been in there on 12:12:11PM**
 13 **non-police business prior to the Halloween 12:12:14PM**
 14 **incident? 12:12:17PM**
 15 A Yes. 12:12:17PM
 16 **Q Had you ever drank at Houser's prior 12:12:18PM**
 17 **to the Halloween incident? 12:12:20PM**
 18 MR. NOVIKOFF: Objection to form. 12:12:23PM
 19 On police business or not on police 12:12:24PM
 20 business? 12:12:26PM
 21 BY MR. GOODSTADT: 12:12:27PM
 22 **Q Did you ever drink on police business 12:12:27PM**
 23 **or while you were on duty at Houser's prior to 12:12:28PM**
 24 **October 31st, 2004? 12:12:29PM**
 25 A Never. 12:12:31PM

25 (Pages 398 to 401)

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1 GEORGE HESSE
2 Q How about subsequent to October 31st, 12:12:32PM
3 2004? 12:12:33PM
4 A Never. 12:12:36PM
5 Q Did you ever drink off duty in 12:12:36PM
6 Houser's prior to October 31, 2004? 12:12:38PM
7 A Yes. 12:12:40PM
8 Q Did you ever drink off duty subsequent 12:12:42PM
9 to October 31, 2004? 12:12:45PM
10 A Yes. 12:12:46PM
11 Q Who was the owner of Houser's at the 12:12:47PM
12 time of the Halloween incident? 12:12:50PM
13 A I believe there's partners involved in 12:12:51PM
14 the bar. I think the major principals are Brian 12:12:53PM
15 O'Hanley and Alan Stillman. 12:12:58PM
16 Q Did you know Mr. O'Hanley prior to 12:13:09PM
17 October 31, 2004? 12:13:13PM
18 A Yes. 12:13:14PM
19 Q Were you friendly with him? 12:13:16PM
20 A Not really. 12:13:18PM
21 Q Did you ever issue any summonses to 12:13:19PM
22 Houser's at any point in time? 12:13:21PM
23 A Yes. 12:13:23PM
24 Q How many times? 12:13:23PM
25 A Maybe three times. 12:13:27PM

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1 GEORGE HESSE
2 Q Were they prior to Halloween '04 or 12:13:29PM
3 after? 12:13:31PM
4 A Prior. 12:13:31PM
5 Q Are you friends with Mr. Stillman? 12:13:34PM
6 A No. 12:13:36PM
7 Q Did you know him prior to Halloween 12:13:37PM
8 2004? 12:13:38PM
9 A Yes. 12:13:39PM
10 Q Did you ever socialize with either of 12:13:42PM
11 them? 12:13:44PM
12 A No. 12:13:45PM
13 Q Okay. Where were you the night of the 12:13:45PM
14 Halloween incident? 12:13:51PM
15 A I was at a wedding. I was in a 12:13:52PM
16 wedding party for a friend of mine. 12:13:54PM
17 Q Where was that wedding? 12:13:58PM
18 A Good question. I believe the church 12:14:02PM
19 might have been in -- let me see, Bayport. And 12:14:04PM
20 then the reception was Port Jeff somewhere. 12:14:10PM
21 Q So you were in Suffolk County at the 12:14:18PM
22 time? 12:14:19PM
23 A Yes. 12:14:19PM
24 Q Were you in Ocean Beach at all that 12:14:22PM
25 day or night, October 30th? 12:14:24PM

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1 GEORGE HESSE
2 A No. 12:14:26PM
3 Q And what was your title at that time? 12:14:33PM
4 A Sergeant. 12:14:37PM
5 Q How did you first learn that there was 12:14:49PM
6 an incident on Halloween of 2004? 12:14:50PM
7 A The early evening of Sunday, I 12:14:55PM
8 believe, the 31st, I received a call from Ed 12:14:58PM
9 Paradiso telling me that he had fired Gary 12:15:01PM
10 Bosetti for an incident that had taken place at 12:15:06PM
11 the bar, that Gary had gone berserk with a pool 12:15:09PM
12 cue and was hitting patrons of the bar. 12:15:14PM
13 Q Do you recall anything else that was 12:15:18PM
14 discussed during that phone call? 12:15:19PM
15 A I asked him what makes him think that 12:15:21PM
16 Gary went nuts and why, and he didn't know why. 12:15:23PM
17 Q Did he tell you what made him think 12:15:30PM
18 that Gary went nuts? 12:15:33PM
19 A No. He just said that he was involved 12:15:34PM
20 in a fight, that he believes he was involved in 12:15:36PM
21 a fight, and that he picked up a pool stick and 12:15:39PM
22 just started hitting people with it. 12:15:42PM
23 Q Was anything else discussed during 12:15:45PM
24 that phone call? 12:15:46PM
25 A Yes. He said that when I get in on 12:15:47PM

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1 GEORGE HESSE
2 Monday morning, he wants me to investigate what 12:15:50PM
3 was going on. 12:15:54PM
4 Q Anything else that was discussed 12:16:01PM
5 during that call? 12:16:02PM
6 A Not that I recall. 12:16:04PM
7 Q Did you speak with anybody else about 12:16:09PM
8 the Halloween incident prior to going in on that 12:16:11PM
9 Monday morning? 12:16:15PM
10 A Yes. 12:16:16PM
11 Q Who did you speak with? 12:16:16PM
12 A Frank Fiorillo and Kevin Lamm. 12:16:17PM
13 Q Okay. When did you speak with -- 12:16:20PM
14 well, strike that. 12:16:23PM
15 Who did you speak with first, Frank 12:16:24PM
16 Fiorillo or Kevin Lamm? 12:16:26PM
17 A Kevin Lamm, I believe. 12:16:27PM
18 Q And when did you speak with him? 12:16:28PM
19 A I'm sure it was shortly after I spoke 12:16:30PM
20 to Ed Paradiso. I was standing in Home Depot 12:16:32PM
21 parking lot in Bay Shore when I made contact 12:16:37PM
22 with Kevin. 12:16:40PM
23 Q It was on the phone you made contact 12:16:41PM
24 with him? 12:16:44PM
25 A Yeah. 12:16:44PM

26 (Pages 402 to 405)

Page 406

1 GEORGE HESSE
2 Q Did you reach out to him or did he 12:16:45PM
3 reach out to you? 12:16:45PM
4 A I called him. 12:16:46PM
5 Q Where was he located? 12:16:46PM
6 A I have no idea. 12:16:46PM
7 Q Did you call him on his cell phone, 12:16:47PM
8 his house phone, station phone? 12:16:49PM
9 A I believe it was his cell phone. 12:16:52PM
10 Q Tell me everything you recall being 12:16:55PM
11 discussed in that conversation. 12:16:57PM
12 A I basically remember asking him what 12:16:58PM
13 had happened and, you know, what made him think 12:17:00PM
14 that Gary went berserk with the pool stick, and 12:17:05PM
15 he kept saying he didn't know why. He kept 12:17:08PM
16 saying, I don't know. 12:17:12PM
17 Q Well, did he tell you that Gary went 12:17:14PM
18 berserk with a pool stick or is that something 12:17:17PM
19 that Paradiso said? 12:17:20PM
20 A I might be conflicting on the two, but 12:17:22PM
21 he did say that Gary struck these individuals. 12:17:24PM
22 I don't know if he named them specifically, but 12:17:28PM
23 he hit somebody with the pool stick. 12:17:30PM
24 Q When you say didn't know the name of 12:17:32PM
25 the individuals, the people who were struck or 12:17:35PM

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1 GEORGE HESSE
2 did he name Gary? 12:17:38PM
3 A The people that were struck. 12:17:40PM
4 Q And what else did he say during that 12:17:42PM
5 call? 12:17:44PM
6 A He just kept saying he didn't know 12:17:45PM
7 what had happened. 12:17:46PM
8 Q Did he give you any other details 12:17:49PM
9 about what had happened other than just telling 12:17:51PM
10 you that he had struck some people with a pool 12:18:03PM
11 cue? 12:18:06PM
12 A That's it. And he said the rest he 12:18:07PM
13 didn't know. 12:18:09PM
14 Q And what did you say during that 12:18:13PM
15 conversation? 12:18:14PM
16 A Okay. 12:18:16PM
17 Q How long did the conversation last? 12:18:17PM
18 A A few minutes. Not long. 12:18:19PM
19 Q Did you take any notes of that 12:18:22PM
20 conversation? 12:18:23PM
21 A No. 12:18:23PM
22 Q Now, I believe you testified that you 12:18:27PM
23 spoke with Frank Fiorillo as well prior to 12:18:29PM
24 coming in that Monday? 12:18:31PM
25 A Yes. 12:18:33PM

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1 GEORGE HESSE
2 Q How long after the Lamm call was the 12:18:33PM
3 Fiorillo discussion? 12:18:35PM
4 A Within minutes. 12:18:37PM
5 Q Did you reach out to Fiorillo or did 12:18:38PM
6 he reach out to you? 12:18:40PM
7 A I believe I called him. 12:18:41PM
8 Q Uh-huh. What phone did you call him 12:18:43PM
9 on? 12:18:45PM
10 A You know, I don't recall. 12:18:46PM
11 Q Do you know where he was at the time? 12:18:49PM
12 A No. 12:18:51PM
13 Q Was he on duty at the time? 12:18:52PM
14 A When I called him, I don't believe so. 12:18:54PM
15 Q Was Lamm on duty when you spoke with 12:18:56PM
16 him? 12:18:57PM
17 A I don't believe so. 12:18:58PM
18 Q Okay. Tell me everything you recall 12:18:59PM
19 in your discussion with Fiorillo. 12:19:01PM
20 A The phone conversation was pretty much 12:19:04PM
21 the same. They just -- Fiorillo said that he 12:19:06PM
22 just didn't know what had happened. 12:19:10PM
23 Q Did he give you any details? 12:19:17PM
24 A Not that I recall specifically other 12:19:20PM
25 than he didn't know what had happened. 12:19:21PM

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1 GEORGE HESSE
2 Q What did you say other than for what 12:19:23PM
3 happened? 12:19:25PM
4 A I really didn't say anything else. I 12:19:27PM
5 just had asked him what had happened. 12:19:29PM
6 Q He said he didn't know? 12:19:32PM
7 A Right. 12:19:33PM
8 Q Anything else discussed in that phone 12:19:33PM
9 call? 12:19:35PM
10 A Not that I recall, no. 12:19:35PM
11 Q Did you take any notes of that call? 12:19:37PM
12 A No. 12:19:38PM
13 Q How long did that call last? 12:19:40PM
14 A Few minutes. 12:19:42PM
15 Q So during those few minutes, you don't 12:19:46PM
16 recall anything other than for you saying what 12:19:48PM
17 happened and him saying I don't know what 12:19:50PM
18 happened? 12:19:52PM
19 MR. CONNOLLY: Objection to the form. 12:19:52PM
20 A Pretty much. 12:19:54PM
21 Q Did you take any notes of that call? 12:19:57PM
22 MR. NOVIKOFF: Objection. Asked and 12:19:59PM
23 answered. 12:20:00PM
24 A No. 12:20:00PM
25 Q Did you speak with anybody else about 12:20:04PM

27 (Pages 406 to 409)

Page 410

1 **GEORGE HESSE**
2 **the Halloween incident prior to coming in on 12:20:05PM**
3 **Monday morning? 12:20:09PM**
4 A No. 12:20:10PM
5 **Q Did you have any other follow-up calls 12:20:11PM**
6 **with Paradiso prior to coming in Monday morning? 12:20:12PM**
7 A No. 12:20:15PM
8 **Q Did you speak with Pat Cherry prior to 12:20:16PM**
9 **coming in Monday morning? 12:20:19PM**
10 A I don't believe so, no. 12:20:20PM
11 **Q Did you speak with Gary Bosetti prior 12:20:21PM**
12 **to coming in Monday morning? 12:20:23PM**
13 A No. 12:20:25PM
14 **Q Did you speak with Rich Bosetti prior 12:20:26PM**
15 **to coming in Monday morning? 12:20:27PM**
16 A No. 12:20:29PM
17 **Q Did you have any communications or 12:20:39PM**
18 **correspondence with anybody about the Halloween 12:20:41PM**
19 **incident other than what you've testified to 12:20:43PM**
20 **prior to coming in that Monday morning? 12:20:45PM**
21 A Not that I recall, no. 12:20:47PM
22 **Q And then you came to work that Monday? 12:20:53PM**
23 A Correct. 12:20:55PM
24 **Q Okay. What was the first thing you 12:20:55PM**
25 **did with respect to the Halloween incident when 12:20:57PM**

Page 411

1 **GEORGE HESSE**
2 **you got to work that Monday? 12:20:59PM**
3 A I read over the statements that were 12:21:01PM
4 taken by Officer Fiorillo, Lamm and Snyder and 12:21:04PM
5 the field report that was generated by Snyder. 12:21:07PM
6 **Q Okay. Did you have a reaction to 12:21:15PM**
7 **statements in the field report? 12:21:17PM**
8 MR. NOVIKOFF: Objection. 12:21:20PM
9 A A reaction? No, I wouldn't say I had 12:21:21PM
10 a reaction. 12:21:27PM
11 **Q What did you do after reviewing the 12:21:28PM**
12 **statements in the field report with respect to 12:21:30PM**
13 **the Halloween incident? 12:21:32PM**
14 A I basically just sat there for a 12:21:33PM
15 little while, mulling them over, scratching my 12:21:35PM
16 head, reading them over and over again. Just 12:21:38PM
17 waiting for something to pop. 12:21:41PM
18 **Q Did you speak with anybody else at 12:21:44PM**
19 **that time? 12:21:47PM**
20 A That morning? I received a call from 12:21:47PM
21 Chief Paradiso that morning. 12:21:51PM
22 **Q Do you know what time? 12:21:53PM**
23 A I'd like to say 8:30ish. 12:21:55PM
24 **Q What time did you get there? 12:21:58PM**
25 A I was there by 8. 12:21:59PM

Page 412

1 **GEORGE HESSE**
2 **Q Okay. So between 8 and 8:30, had you 12:22:01PM**
3 **already read the statements in the field report? 12:22:03PM**
4 A Yes. 12:22:06PM
5 **Q And you were waiting for something to 12:22:07PM**
6 **pop during that period? 12:22:09PM**
7 A Yeah. 12:22:11PM
8 **Q Between 8 and 8:30, did you speak with 12:22:11PM**
9 **anybody prior to this call from Paradiso coming 12:22:14PM**
10 **in about the Halloween incident? 12:22:18PM**
11 A No. 12:22:20PM
12 **Q What do you recall -- tell me the 12:22:24PM**
13 **details of your call with Paradiso that morning. 12:22:26PM**
14 A Well, he called me, and I basically 12:22:29PM
15 said to him that there's not really much to go 12:22:33PM
16 on yet, you know. The field report really 12:22:36PM
17 didn't contain many names other than the three 12:22:38PM
18 individuals that were claiming they were hit 12:22:42PM
19 with a pool stick. 12:22:45PM
20 **Q Anything else that was discussed 12:22:48PM**
21 **between you and Paradiso during that call? 12:22:50PM**
22 A Not that I recall. 12:22:52PM
23 **Q How long did that call last? 12:22:53PM**
24 A A few minutes. 12:22:55PM
25 **Q Do you recall anything he said during 12:22:58PM**

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1 **GEORGE HESSE**
2 **that call? 12:22:59PM**
3 A I don't recall exactly what he said, 12:23:00PM
4 no. 12:23:02PM
5 **Q How about generally, sum and 12:23:02PM**
6 **substance? 12:23:04PM**
7 A He just said investigate it and see 12:23:05PM
8 what you can come up with. 12:23:06PM
9 **Q Okay. What was the next thing you did 12:23:08PM**
10 **with respect to the Halloween incident after 12:23:13PM**
11 **that 8:30 call with Paradiso? 12:23:15PM**
12 A I took a walk down to Houser's to see 12:23:17PM
13 if anybody was around. 12:23:21PM
14 **Q Did you go with anybody? 12:23:23PM**
15 A No. 12:23:25PM
16 **Q Who was on duty that morning? 12:23:28PM**
17 A I was alone. 12:23:30PM
18 **Q And you took a walk down to Houser's. 12:23:40PM**
19 **What was the next thing you did? 12:23:42PM**
20 A I peered in the windows, looked around 12:23:44PM
21 to see if anybody was there. Nobody was around, 12:23:46PM
22 and I just basically went back to the police 12:23:49PM
23 station. 12:23:52PM
24 **Q Okay. What was the next thing you did 12:23:56PM**
25 **with respect to Halloween? 12:23:58PM**

28 (Pages 410 to 413)

Page 414

1 **GEORGE HESSE**
2 A I sat in the station, and I think I 12:24:02PM
3 read the statements and everything again. And 12:24:04PM
4 shortly thereafter, I believe it was around 12:24:08PM
5 9:30, I had received a fax from a gentlemen 12:24:11PM
6 named Bud Yager. 12:24:16PM
7 **Q Had you known Bud Yager prior to 12:24:24PM**
8 **receiving that fax? 12:24:28PM**
9 A Yeah. Yes. 12:24:29PM
10 **Q Who was he? 12:24:29PM**
11 A He was a local resident that -- he 12:24:30PM
12 worked in the -- I think he and his wife ran the 12:24:33PM
13 movie theater. He was a projectionist for the 12:24:37PM
14 movie theater. 12:24:41PM
15 **Q Had you spoken to Bud Yager about 12:24:43PM**
16 **Halloween prior to receiving the fax? 12:24:46PM**
17 A No. 12:24:48PM
18 **Q Had you known that Bud Yager was even 12:24:48PM**
19 **in the bar prior to receiving that fax? 12:24:50PM**
20 A No. 12:24:53PM
21 **Q And the fax came to the police 12:24:59PM**
22 **station? 12:25:00PM**
23 A Yes. 12:25:01PM
24 **Q And what was the sum and substance of 12:25:01PM**
25 **that fax? 12:25:03PM**

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1 **GEORGE HESSE**
2 A I guess he had heard that Gary Bosetti 12:25:03PM
3 was fired for the incident, and he felt that the 12:25:06PM
4 decision to fire Gary was incorrect. He felt 12:25:11PM
5 that Gary Bosetti was a hero for saving his wife 12:25:13PM
6 from injury or possible injury from a man that 12:25:18PM
7 had attacked his wife. 12:25:22PM
8 **Q Prior to getting that fax, did you 12:25:24PM**
9 **know that his wife was at the bar? 12:25:26PM**
10 A No, I didn't. No. 12:25:29PM
11 **Q What did you do with that fax other 12:25:41PM**
12 **than for reading it? Did you disseminate it to 12:25:42PM**
13 **anybody else? 12:25:45PM**
14 A No. I believe I called him -- 12:25:46PM
15 actually, I tried to call him. Turns out he's a 12:25:48PM
16 New York City fireman, and I tried to call him 12:25:52PM
17 at the number that was listed on the fax. I got 12:25:55PM
18 no response. And what I did is took a piece of 12:25:58PM
19 paper and I wrote, you know, Bud, it's George 12:26:01PM
20 from the police department. I just received 12:26:04PM
21 your fax or something like that. Call me at 12:26:06PM
22 this number. And I faxed it to the number that 12:26:09PM
23 the fax came from. 12:26:12PM
24 **Q Did the fax go through? 12:26:15PM**
25 A Yeah, I think so. 12:26:17PM

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1 **GEORGE HESSE**
2 **Q Did you keep a copy of that responding 12:26:18PM**
3 **fax that you sent? 12:26:21PM**
4 A No, I don't think I did. 12:26:23PM
5 **Q What did you do with it? 12:26:24PM**
6 A I don't remember. 12:26:26PM
7 **Q What was the next thing that you did 12:26:32PM**
8 **with respect to Halloween after sending the fax 12:26:34PM**
9 **back to Bud Yager? 12:26:36PM**
10 A I believe I got a call back within 5 12:26:39PM
11 or 10 minutes from Bud Yager, and we just talked 12:26:43PM
12 about what he had sent me. 12:26:50PM
13 **Q Okay. What did Bud Yager tell you in 12:26:51PM**
14 **that call? 12:26:53PM**
15 A Basically, he reiterated what was in 12:26:54PM
16 his letter to the police department; and I asked 12:26:57PM
17 if I could speak to his wife, if she would call 12:27:01PM
18 me. 12:27:04PM
19 **Q Did you take any notes of that call 12:27:09PM**
20 **with Bud Yager? 12:27:11PM**
21 A No. 12:27:12PM
22 **Q Why not? 12:27:12PM**
23 A I didn't. 12:27:14PM
24 **Q How come? 12:27:15PM**
25 MR. CONNOLLY: Objection. 12:27:21PM

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1 **GEORGE HESSE**
2 You can answer. 12:27:22PM
3 A I didn't think it was necessary to 12:27:23PM
4 take notes. I had his letter in front of me. 12:27:24PM
5 **Q Did you consider that call as part of 12:27:28PM**
6 **your investigation? 12:27:31PM**
7 A Yeah. 12:27:32PM
8 **Q Do you recall anything else that was 12:27:36PM**
9 **discussed in that phone call? 12:27:38PM**
10 A I wanted to speak to his wife. 12:27:41PM
11 **Q Did you know his wife? 12:27:44PM**
12 A Just vaguely. 12:27:46PM
13 **Q How did you know her? 12:27:48PM**
14 A Like I said, he and his wife ran the 12:27:50PM
15 movie theater, and I just knew them in passing. 12:27:53PM
16 **Q Did you ask Bud Yager whether he had 12:28:10PM**
17 **been drinking that night? 12:28:14PM**
18 A I don't recall. I don't think so. 12:28:17PM
19 **Q Would that be important to know, 12:28:19PM**
20 **whether somebody who sent you a facsimile 12:28:20PM**
21 **reiterating a story that happened was drinking? 12:28:24PM**
22 MR. NOVIKOFF: Was what? 12:28:27PM
23 MR. GOODSTADT: Whether it was 12:28:28PM
24 important to know whether a person who faxed 12:28:29PM
25 you a story reiterating what happened, 12:28:32PM

29 (Pages 414 to 417)

Page 418

1 GEORGE HESSE
 2 whether that person was drinking or not. 12:28:34PM
 3 MR. NOVIKOFF: Objection to form. 12:28:37PM
 4 MR. CONNOLLY: I'm assuming drinking 12:28:38PM
 5 alcoholic beverages. 12:28:40PM
 6 MR. GOODSTADT: Yeah. 12:28:42PM
 7 MR. CONNOLLY: To the point of 12:28:43PM
 8 intoxication. 12:28:44PM
 9 MR. GOODSTADT: Just drinking at all. 12:28:44PM
 10 A It may have been important. 12:28:45PM
 11 **Q Why didn't you ask him? 12:28:47PM**
 12 A I don't know why I didn't ask him. 12:28:49PM
 13 **Q In fact, if he had been drinking to 12:28:51PM**
 14 **the point of intoxication, it could've affected 12:28:52PM**
 15 **his ability to recollect facts, correct? 12:28:55PM**
 16 MR. NOVIKOFF: Objection. 12:28:58PM
 17 A It may have. 12:28:59PM
 18 **Q Did Bud Yager mention anything about 12:29:01PM**
 19 **Gary Bosetti using a pool cue? 12:29:05PM**
 20 A No. I don't recall. 12:29:09PM
 21 **Q Did Bud Yager indicate that he 12:29:12PM**
 22 **actually saw the altercation? 12:29:14PM**
 23 A I believe he said that he did not see 12:29:16PM
 24 the actual altercation in the beginning or the 12:29:18PM
 25 beginning part of the altercation. 12:29:22PM

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1 GEORGE HESSE
 2 **Q When you say the beginning part, what 12:29:24PM**
 3 **part are you referring to? 12:29:26PM**
 4 A The part where his wife was choked. 12:29:27PM
 5 **Q Did you ask him where he got the 12:29:35PM**
 6 **information from that his wife was being choked? 12:29:37PM**
 7 MR. NOVIKOFF: Objection to form. 12:29:40PM
 8 You mean to the extent it wasn't 12:29:41PM
 9 contained in the statement? 12:29:42PM
 10 MR. GOODSTADT: He didn't personally 12:29:44PM
 11 see it, so I want to know -- 12:29:46PM
 12 MR. NOVIKOFF: Well, I'm saying to the 12:29:46PM
 13 extent that that answer was not contained 12:29:47PM
 14 within the statement. 12:29:49PM
 15 MR. GOODSTADT: Whether it is or 12:29:50PM
 16 isn't, did you ask him the question. 12:29:51PM
 17 MR. NOVIKOFF: Fair enough. 12:29:54PM
 18 A He said his wife had told him what had 12:29:55PM
 19 happened. 12:29:57PM
 20 **Q Did you ask whether his wife was 12:30:01PM**
 21 **drinking? 12:30:03PM**
 22 A No, I don't think so. 12:30:05PM
 23 **Q Sitting here today, do you know 12:30:07PM**
 24 **whether Bud Yager was drinking that night? 12:30:08PM**
 25 A I don't know. 12:30:11PM

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1 GEORGE HESSE
 2 **Q Do you know whether Jeanne Yager was 12:30:11PM**
 3 **drinking that night? 12:30:14PM**
 4 A I don't know. 12:30:15PM
 5 **Q Did he tell you he witnessed any part 12:30:15PM**
 6 **of the altercation or the Halloween incident? 12:30:18PM**
 7 A I don't recall. 12:30:22PM
 8 **Q Did you ask him whether he witnessed 12:30:25PM**
 9 **any of it? 12:30:27PM**
 10 A I believe I did. 12:30:28PM
 11 **Q And you don't recall what his answer 12:30:29PM**
 12 **was? 12:30:31PM**
 13 A No, I don't. 12:30:31PM
 14 **Q How many investigations had you 12:30:32PM**
 15 **performed prior to investigating the Halloween 12:30:34PM**
 16 **incident? 12:30:37PM**
 17 A I don't know. 12:30:38PM
 18 **Q Had you performed any investigations 12:30:40PM**
 19 **prior to the Halloween incident? 12:30:42PM**
 20 A Sure, I had. 12:30:43PM
 21 **Q Did you ever investigate any incident 12:30:44PM**
 22 **dealing with an off-duty police officer? 12:30:47PM**
 23 A I don't think so, no. 12:30:51PM
 24 **Q Had you ever investigated a fight? 12:30:52PM**
 25 A Yes. 12:30:57PM

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1 GEORGE HESSE
 2 **Q How many times? 12:30:58PM**
 3 A Hundreds. 12:30:59PM
 4 **Q Hundreds of times? 12:31:00PM**
 5 A Hundreds of fights. 12:31:02PM
 6 **Q Did you ever investigate any fights 12:31:04PM**
 7 **not at the scene but afterwards? 12:31:07PM**
 8 MR. NOVIKOFF: Objection to form. I 12:31:10PM
 9 have no idea what that question means. 12:31:11PM
 10 BY MR. GOODSTADT: 12:31:13PM
 11 **Q Well, your investigation didn't happen 12:31:14PM**
 12 **at the scene, right? 12:31:16PM**
 13 A Yes. 12:31:18PM
 14 **Q It happened afterwards? 12:31:18PM**
 15 A Right. 12:31:18PM
 16 **Q Do you understand the question I was 12:31:20PM**
 17 **asking? 12:31:21PM**
 18 A I understand. 12:31:21PM
 19 MR. NOVIKOFF: Well, I think that an 12:31:22PM
 20 investigation can only take place after the 12:31:23PM
 21 event occurred. 12:31:26PM
 22 MR. GOODSTADT: Or at the scene. 12:31:28PM
 23 MR. NOVIKOFF: After the event 12:31:30PM
 24 occurred. 12:31:31PM
 25 MR. GOODSTADT: Right. 12:31:31PM

30 (Pages 418 to 421)

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1 GEORGE HESSE
2 MR. NOVIKOFF: Right. Okay. 12:31:31PM
3 A Repeat your question. 12:31:31PM
4 **Q How many of those investigations 12:31:34PM**
5 **happened not at the scene but afterwards? 12:31:36PM**
6 MR. NOVIKOFF: Objection. 12:31:40PM
7 A I'd say a majority. 12:31:40PM
8 **Q A majority? 12:31:42PM**
9 A Yeah. 12:31:43PM
10 **Q Does Ocean Beach have an internal 12:31:43PM**
11 **affairs? 12:31:45PM**
12 A No. 12:31:48PM
13 **Q Does -- 12:31:49PM**
14 MR. CONNOLLY: Department, I assume. 12:31:50PM
15 MR. GOODSTADT: Department, yeah. 12:31:51PM
16 Bureau or whatever it is. 12:31:52PM
17 BY MR. GOODSTADT: 12:31:53PM
18 **Q Is there any -- does Suffolk County 12:31:54PM**
19 **internal affairs oversee Ocean Beach? 12:31:59PM**
20 A No. Not that I'm aware of, no. 12:32:06PM
21 **Q Do you know whether there's ever been 12:32:09PM**
22 **an internal affairs investigation with respect 12:32:10PM**
23 **to any current or former officer in Ocean Beach? 12:32:12PM**
24 A With the internal affairs unit of 12:32:17PM
25 Suffolk County PD? No. 12:32:20PM

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1 GEORGE HESSE
2 **Q Or any internal affairs unit. 12:32:21PM**
3 A Not that I'm aware of. 12:32:24PM
4 **Q Did you call anybody at Suffolk County 12:32:26PM**
5 **Police with respect to the Halloween incident? 12:32:28PM**
6 MR. NOVIKOFF: Objection to form. 12:32:32PM
7 A No. 12:32:33PM
8 **Q Did you involve Suffolk County Police 12:32:34PM**
9 **at all with respect to Halloween incident? 12:32:35PM**
10 MR. NOVIKOFF: Objection. Foundation. 12:32:38PM
11 A No. 12:32:39PM
12 **Q Did you involve the D.A., County 12:32:40PM**
13 **District Attorney, with respect to the Halloween 12:32:43PM**
14 **incident? 12:32:45PM**
15 MR. NOVIKOFF: Objection. 12:32:46PM
16 A Yes. 12:32:46PM
17 **Q In what capacity? 12:32:47PM**
18 A At the completion of the 12:32:48PM
19 investigation, I turned all documents over to 12:32:49PM
20 the D.A.'s office, the prosecutor that's 12:32:51PM
21 assigned to the village for review. 12:32:54PM
22 **Q Who was the prosecutor assigned to the 12:32:56PM**
23 **village at the time? 12:32:59PM**
24 A It may -- you know, I think it was -- 12:33:02PM
25 it's coming to me. Natalie -- no. Any other 12:33:09PM

Page 424

1 GEORGE HESSE
2 day I can remember her name. Mallory Sullivan. 12:33:15PM
3 **Q She was an investigator or is she an 12:33:29PM**
4 **assistant District Attorney? 12:33:30PM**
5 A She's an ADA. ADA. 12:33:32PM
6 You know what, I'm sorry. It may have 12:33:37PM
7 been Beth Grasso. Because they kind of work 12:33:39PM
8 back to back, but I think it was Beth Grasso. 12:33:45PM
9 **Q Were there any District Attorney 12:33:48PM**
10 **investigators involved in the Halloween 12:33:51PM**
11 **incident? 12:33:53PM**
12 MR. NOVIKOFF: Objection. 12:33:54PM
13 A Not that I'm aware of. 12:33:55PM
14 MR. CONNOLLY: Andrew, after you 12:34:11PM
15 complete this line of questioning, it's 12:34:12PM
16 12:30. 12:34:14PM
17 MR. NOVIKOFF: I don't think he's 12:34:17PM
18 completing this line of questioning for a 12:34:18PM
19 couple of hours. 12:34:20PM
20 MR. GOODSTADT: Yeah. Let me just 12:34:21PM
21 finish on Mr. Yager, and then we'll take our 12:34:23PM
22 break, call the court and do what we have to 12:34:26PM
23 do. 12:34:30PM
24 BY MR. GOODSTADT: 12:34:38PM
25 **Q What was the next thing that happened 12:34:38PM**

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1 GEORGE HESSE
2 **with respect to the Halloween incident after you 12:34:39PM**
3 **told Bud Yager that you'd like to speak with his 12:34:42PM**
4 **wife? 12:34:46PM**
5 A I believe his wife had called me. 12:34:46PM
6 **Q Okay. And when was that? 12:34:48PM**
7 A That same day. The time frame, 12:34:50PM
8 though, from when I was talking to him until she 12:34:52PM
9 called may have been within an hour. 12:34:56PM
10 **Q Okay. 12:34:58PM**
11 MR. GOODSTADT: Mark this, please. 12:35:01PM
12 (Whereupon, Bates document 3180 was 12:35:03PM
13 marked as Plaintiff's Exhibit 14 for 12:35:03PM
14 identification, as of this date.) 12:35:03PM
15 MR. GOODSTADT: I've placed in front 12:35:54PM
16 of Mr. Hesse what's been marked as Hesse 14. 12:35:55PM
17 It's a one-page exhibit bearing Bates 3180. 12:35:57PM
18 (Handing.) 12:36:01PM
19 BY MR. GOODSTADT: 12:36:02PM
20 **Q Mr. Hesse, is this the fax that you 12:36:03PM**
21 **received or a copy of the fax that you received 12:36:04PM**
22 **from Bud Yager? 12:36:06PM**
23 A It looks like it, yes. 12:36:08PM
24 **Q And this is the document you testified 12:36:09PM**
25 **to before that you had reviewed before calling 12:36:12PM**

31 (Pages 422 to 425)

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1 **GEORGE HESSE**
2 **him? 12:36:15PM**
3 A Yes. 12:36:15PM
4 **Q Or before faxing it over -- before 12:36:16PM**
5 **faxing a request for him to call you? 12:36:17PM**
6 A Yes. 12:36:20PM
7 **Q And the -- if you look at the whole -- 12:36:21PM**
8 **just the first paragraph up until the last four 12:36:25PM**
9 **lines, do you see that? Did you read that? 12:36:31PM**
10 A Which part? 12:36:35PM
11 **Q The part that starts -- you know, on 12:36:36PM**
12 **the first line that says "on Saturday night," 12:36:38PM**
13 **all the way through to four lines up from the 12:36:40PM**
14 **end of that first paragraph. 12:36:43PM**
15 MR. CONNOLLY: You mean second 12:36:46PM
16 sentence? 12:36:47PM
17 MR. GOODSTADT: All of the sentences, 12:36:48PM
18 starting on the second sentences. 12:36:50PM
19 A That entire paragraph you're talking 12:36:54PM
20 about? 12:36:55PM
21 **Q Yeah, yeah. Up until the sentence 12:36:56PM**
22 **that ends with the parenthetical that says "to 12:36:56PM**
23 **go to the ladies' room." 12:36:59PM**
24 A "Then she knocked on the door." Okay. 12:37:04PM
25 **Q Okay. You read that whole paragraph 12:37:07PM**

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1 **GEORGE HESSE**
2 **up until that line? 12:37:11PM**
3 A You're talking about from "on 12:37:13PM
4 Saturday" to "she knocked on the door"? Or you 12:37:14PM
5 want me to read the entire paragraph? 12:37:18PM
6 **Q Yeah, keep going. 12:37:20PM**
7 A Okay. 12:37:37PM
8 **Q Now, up until that sentence that ends 12:37:38PM**
9 **"to go to the ladies' room" -- do you see that? 12:37:40PM**
10 **Bud Yager told you he did not witness any of 12:37:44PM**
11 **that, correct? 12:37:46PM**
12 MR. NOVIKOFF: Objection. 12:37:48PM
13 A Yeah, I believe that's what he said to 12:37:50PM
14 me. 12:37:51PM
15 **Q And then the next sentence that says, 12:37:52PM**
16 **"With that, this man lunged at my wife with his 12:37:53PM**
17 **hands on my wife's throat. Jeanne was knocked 12:37:55PM**
18 **into the men's room door." 12:37:57PM**
19 **Do you see that? 12:37:59PM**
20 A Yes. 12:37:59PM
21 **Q Again, he did not -- he told you he 12:38:00PM**
22 **did not witness that, correct? 12:38:02PM**
23 A Right. 12:38:03PM
24 **Q Then next sentence says, "Ocean Beach 12:38:04PM**
25 **Police Officer Gary Bosetti saw the situation 12:38:05PM**

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1 **GEORGE HESSE**
2 **and immediately took action." 12:38:12PM**
3 **Do you see that? 12:38:13PM**
4 A Uh-huh. Yes. 12:38:14PM
5 **Q Did he tell you that he actually 12:38:14PM**
6 **saw -- did Bud Yager tell you he actually saw 12:38:14PM**
7 **Gary Bosetti take action? 12:38:17PM**
8 A No. 12:38:18PM
9 **Q Did he tell you he didn't see Gary 12:38:18PM**
10 **Bosetti take action? 12:38:21PM**
11 A I believe he said he didn't see the 12:38:22PM
12 incident. 12:38:24PM
13 **Q And the next sentence says, "He 12:38:25PM**
14 **subdued this drunken individual." 12:38:27PM**
15 **Do you see that? 12:38:29PM**
16 A Yes. 12:38:29PM
17 **Q Did he tell you that he saw Gary 12:38:29PM**
18 **Bosetti subdue the drunken individual? 12:38:30PM**
19 A I believe he didn't. 12:38:33PM
20 **Q He told you that he did not see him? 12:38:33PM**
21 A He did not. 12:38:36PM
22 **Q So is there any -- any facts that he's 12:38:37PM**
23 **stating about what happened the night before did 12:38:43PM**
24 **he actually see? 12:38:48PM**
25 A I believe no. 12:38:50PM

Page 429

1 **GEORGE HESSE**
2 MR. CONNOLLY: Based upon what he told 12:38:51PM
3 you? 12:38:53PM
4 THE WITNESS: Correct. 12:38:53PM
5 BY MR. GOODSTADT: 12:38:55PM
6 **Q Did you ask him whether he saw Gary 12:38:55PM**
7 **Bosetti use a pool cue at any point? 12:38:59PM**
8 A I don't recall if I did or not. 12:39:01PM
9 **Q Did he mention anything about a pool 12:39:03PM**
10 **cue in your discussions? 12:39:04PM**
11 A I don't recall if he did or not. 12:39:06PM
12 **Q Did you ask Bud Yager why he hadn't 12:39:12PM**
13 **spoken to any of the police officers who showed 12:39:17PM**
14 **up that night? 12:39:19PM**
15 MR. NOVIKOFF: Objection to form. 12:39:20PM
16 BY MR. GOODSTADT: 12:39:21PM
17 **Q The on-duty police officers? 12:39:21PM**
18 MR. NOVIKOFF: Objection to form. 12:39:24PM
19 A I don't recall if I asked him that or 12:39:25PM
20 not. 12:39:27PM
21 **Q Did you ask him why he didn't give a 12:39:27PM**
22 **statement that night to the police? 12:39:29PM**
23 MR. NOVIKOFF: Objection to form. 12:39:32PM
24 A I don't recall if I did or not. 12:39:33PM
25 **Q Do you know whether he gave a 12:39:35PM**

32 (Pages 426 to 429)

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Page 430

1 **GEORGE HESSE**
2 **statement that night to the police? 12:39:37PM**
3 A I'm assuming no, because there's 12:39:39PM
4 though statement. 12:39:41PM
5 **Q Now, I see that this memo is addressed 12:39:45PM**
6 **to Chief Paradiso. 12:39:47PM**
7 **Do you see that? 12:39:48PM**
8 A Yes. 12:39:49PM
9 **Q Did you inform Chief Paradiso that 12:39:50PM**
10 **this memo came in? 12:39:51PM**
11 A Yes. 12:39:53PM
12 **Q When? 12:39:54PM**
13 A I don't recall when. 12:39:54PM
14 **Q Was it on that day? 12:39:55PM**
15 A Yes. 12:39:56PM
16 **Q Was it before you faxed back to Bud 12:39:56PM**
17 **Yager, please call me? 12:40:00PM**
18 A I think it was after. 12:40:02PM
19 **Q Do you recall Paradiso's response when 12:40:04PM**
20 **you told him this fax came in? 12:40:06PM**
21 A I don't remember his response. 12:40:08PM
22 **Q Did you tell Paradiso about it before 12:40:10PM**
23 **or after you actually spoke with Bud Yager? 12:40:12PM**
24 A It may have been after I spoke to Bud. 12:40:16PM
25 **Q Did you ask him how he heard that Rich 12:40:21PM**

Page 431

1 **GEORGE HESSE**
2 **Bosetti lost his job -- strike that. 12:40:23PM**
3 **Did you ask him how he learned that 12:40:26PM**
4 **Gary Bosetti lost his job? 12:40:29PM**
5 MR. NOVIKOFF: You're talking about 12:40:32PM
6 Bud Yager now? 12:40:33PM
7 MR. GOODSTADT: Bud Yeager. 12:40:34PM
8 MR. NOVIKOFF: Okay. 12:40:35PM
9 A Now, I don't recall if I did. 12:40:35PM
10 **Q Did you tell you how he learned that? 12:40:36PM**
11 A I don't recall. 12:40:40PM
12 **Q Do you know whether anyone asked him 12:40:41PM**
13 **to send in a statement? 12:40:43PM**
14 A No. 12:40:46PM
15 **Q Did you take any notes of your phone 12:40:47PM**
16 **call with Yager? 12:40:49PM**
17 MR. CONNOLLY: Objection. Asked and 12:40:50PM
18 answered. 12:40:51PM
19 MR. NOVIKOFF: Objection. Asked and 12:40:52PM
20 answered. 12:40:53PM
21 A No. 12:40:54PM
22 **Q You didn't? 12:40:54PM**
23 **How long did that call last? 12:40:56PM**
24 MR. CONNOLLY: Objection. Asked and 12:40:57PM
25 answered. 12:40:58PM

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1 **GEORGE HESSE**
2 But you can answer. 12:40:58PM
3 A It was several minutes. I don't 12:41:00PM
4 really recall how long it was. 12:41:01PM
5 **Q Did you ask him what he did after 12:41:15PM**
6 **leaving Houser's that night? 12:41:18PM**
7 A You know, I don't recall if I did or 12:41:20PM
8 not. 12:41:22PM
9 **Q Did he tell you what he did after he 12:41:22PM**
10 **left Houser's? 12:41:25PM**
11 A I don't recall. 12:41:26PM
12 **Q Did you credit his statement as part 12:41:32PM**
13 **of your investigation? 12:41:34PM**
14 A Did I credit? 12:41:36PM
15 **Q Yeah. Did you believe the statement? 12:41:38PM**
16 A I believed it, yes. 12:41:41PM
17 **Q Did you give it any weight in terms of 12:41:43PM**
18 **reaching a conclusion to your investigation? 12:41:45PM**
19 MR. NOVIKOFF: Objection to form. 12:41:48PM
20 A It gave me a way to go. 12:41:49PM
21 **Q What do you mean by that? 12:41:51PM**
22 A It gave me a lead on what may have 12:41:52PM
23 transpired that night to precipitate what 12:41:55PM
24 everybody was claiming about Gary Bosetti. 12:42:00PM
25 **Q And other than for that one phone 12:42:05PM**

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1 **GEORGE HESSE**
2 **call, did you ever speak with Bud Yager on any 12:42:06PM**
3 **other occasion about Halloween? 12:42:09PM**
4 MR. NOVIKOFF: About the Halloween 12:42:11PM
5 incident. 12:42:12PM
6 MR. GOODSTADT: Yeah. 12:42:13PM
7 MR. NOVIKOFF: Okay. 12:42:16PM
8 A You know, I don't believe I spoke to 12:42:17PM
9 him again after that day. 12:42:18PM
10 **Q About anything? 12:42:23PM**
11 A Yeah, I don't believe so. 12:42:25PM
12 **Q As the investigator -- strike that. 12:42:27PM**
13 **Were you the only investigator at this 12:42:30PM**
14 **time on the case? 12:42:31PM**
15 A At this point, yes. 12:42:32PM
16 **Q Okay. As the sole investigator, how 12:42:33PM**
17 **come you didn't take any notes with respect to 12:42:36PM**
18 **your interaction with Mr. Yager? 12:42:38PM**
19 MR. NOVIKOFF: Objection to form. I 12:42:41PM
20 think it's asked and answered, but form as 12:42:42PM
21 well. 12:42:44PM
22 A Yeah, like I said, I didn't think it 12:42:45PM
23 was necessary because all I would've been doing 12:42:46PM
24 was rewriting basically what he had already sent 12:42:49PM
25 me. 12:42:53PM

33 (Pages 430 to 433)

Page 434

1 GEORGE HESSE
2 MR. GOODSTADT: This would be a good 12:42:53PM
3 time to take that break. 12:42:54PM
4 MR. CONNOLLY: Sure. 12:42:55PM
5 MR. NOVIKOFF: Okay. 12:42:56PM
6 THE VIDEOGRAPHER: The time is 12:44. 12:42:57PM
7 We're off the record. 12:42:59PM
8 (Whereupon, a lunch break was taken.) 12:43:00PM
9 THE VIDEOGRAPHER: The time is 1:47. 1:45:52PM
10 We're on the record. 1:45:52PM
11 BY MR. GOODSTADT: 1:45:55PM
12 Q Mr. Hesse, before our break, you had 1:45:56PM
13 mentioned that on the Sunday before going back 1:45:59PM
14 to the beach on Monday after Halloween, that you 1:46:02PM
15 reached out to Fiorillo, you spoke with him, and 1:46:07PM
16 you reached out to Lamm and spoke with him, 1:46:09PM
17 correct? 1:46:13PM
18 A Correct. 1:46:13PM
19 Q Okay. Did you reach out to Snyder? 1:46:13PM
20 A I believe I tried. I was unable to 1:46:15PM
21 get into contact with him. 1:46:20PM
22 Q So did you speak with him at all 1:46:21PM
23 before coming back to the beach that Monday? 1:46:23PM
24 A I don't recall. 1:46:26PM
25 Q You don't recall one way or the other? 1:46:26PM

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1 GEORGE HESSE
2 A No. 1:46:28PM
3 Q Okay. And I just point you back to 1:46:29PM
4 Hesse 14. Do you see that there's an indicated 1:46:32PM
5 copy to Natalie Rogers? 1:46:36PM
6 Do you see that? 1:46:37PM
7 A Yes, I do. 1:46:38PM
8 Q Do you know whether she ever received 1:46:39PM
9 a copy of this memo? 1:46:41PM
10 A I do not. 1:46:43PM
11 Q Did you ever speak to her about this 1:46:43PM
12 memo? 1:46:45PM
13 A I don't think, no. 1:46:46PM
14 Q Did you ever speak with Natalie Rogers 1:46:47PM
15 at all about the Halloween incident? 1:46:49PM
16 A I don't recall. 1:46:52PM
17 Q So you don't recall one way or the 1:46:53PM
18 other? 1:46:54PM
19 A No. 1:46:55PM
20 Q Did you ever speak with Joe Loeffler 1:46:55PM
21 about the Halloween incident? 1:46:57PM
22 A Yes. 1:46:59PM
23 Q When did you speak with him about 1:47:01PM
24 Halloween? 1:47:02PM
25 A I think it was a week after. 1:47:05PM

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1 GEORGE HESSE
2 Q Was that on the phone or in person? 1:47:09PM
3 A I believe it was in person. 1:47:11PM
4 Q Where were you located? 1:47:13PM
5 A In the police station. 1:47:15PM
6 Q Was he there specifically to speak 1:47:19PM
7 about the Halloween incident or was he there on 1:47:21PM
8 some other business? 1:47:24PM
9 MR. NOVIKOFF: Objection. 1:47:26PM
10 A I don't recall. 1:47:27PM
11 Q Tell me everything you recall 1:47:29PM
12 discussing with Joe Loeffler during that 1:47:30PM
13 conversation. 1:47:33PM
14 A I think I just pretty much told him 1:47:33PM
15 the story of what was going on with the incident 1:47:36PM
16 and basically what I had found out, and that was 1:47:40PM
17 pretty much it. He just said good job, pretty 1:47:46PM
18 much, and walked out. 1:47:49PM
19 Q Did he tell you that he was at the 1:47:50PM
20 police station that night? 1:47:52PM
21 A You know, I don't recall if he did. 1:47:54PM
22 Q Did you ever discuss with him the fact 1:47:56PM
23 that he was at the police station that night? 1:47:58PM
24 A Yes. 1:48:00PM
25 Q When did you discuss that with him? 1:48:01PM

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1 GEORGE HESSE
2 A Probably -- it was within the last two 1:48:08PM
3 years at some point. I don't know specifically 1:48:09PM
4 with the dates. 1:48:11PM
5 Q After you were served with the 1:48:12PM
6 complaint in this lawsuit or before? 1:48:14PM
7 A I think so, yes. 1:48:16PM
8 Q What did he say about that? 1:48:17PM
9 A He said that he was in the police 1:48:19PM
10 station. I guess he was running rescue that 1:48:20PM
11 night and he was the ambulance driver, and he 1:48:23PM
12 was inside the police station at some point. 1:48:25PM
13 Q Did he tell you anything he witnessed 1:48:28PM
14 inside the police station or anything that was 1:48:29PM
15 said? 1:48:31PM
16 A Not that I recall, no. 1:48:32PM
17 Q What did he say to you about his 1:48:33PM
18 experience being at the police station that 1:48:35PM
19 night? 1:48:36PM
20 A He basically just said he walked in 1:48:37PM
21 and dropped off some bags, and he went back out 1:48:39PM
22 into the rig to watch the rig, just to watch the 1:48:42PM
23 ambulance. He's the driver, so... 1:48:47PM
24 Q Did he discuss with you at all the 1:48:49PM
25 injuries that were sustained by anybody who was 1:48:51PM

34 (Pages 434 to 437)

Page 438

1 **GEORGE HESSE**
2 **in the altercation? 1:48:53PM**
3 MR. NOVIKOFF: Objection. Form. 1:48:55PM
4 A Not that I recall. 1:48:56PM
5 **Q During the break that we just took, 1:49:04PM**
6 **did you speak with Ken Novikoff at all? 1:49:06PM**
7 A I think so, yeah. 1:49:10PM
8 **Q What was discussed between you and 1:49:11PM**
9 **Mr. Novikoff? 1:49:13PM**
10 A I don't recall, to tell you the truth. 1:49:15PM
11 Small talk. 1:49:17PM
12 **Q You don't recall anything that was 1:49:18PM**
13 **discussed in small talk? 1:49:20PM**
14 A No. 1:49:21PM
15 **Q So you don't recall a conversation 1:49:22PM**
16 **that happened between 10 and 40 minutes ago? 1:49:23PM**
17 A No. I think we were just talking 1:49:28PM
18 about allowing you more time and calling the 1:49:30PM
19 judge. Most of the conversation was between 1:49:33PM
20 counsel. 1:49:34PM
21 **Q Anything else you recall of a 1:49:37PM**
22 **discussion between you and Mr. Novikoff? 1:49:39PM**
23 A No. 1:49:43PM
24 **Q So after you spoke with Bud Yager, you 1:49:47PM**
25 **testified that his wife called back an hour 1:49:52PM**

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1 **GEORGE HESSE**
2 **later, approximately; is that correct? 1:49:55PM**
3 A I think it was within an hour. 1:49:56PM
4 **Q Okay. Did you do anything with 1:49:58PM**
5 **respect to the Halloween incident between the 1:49:59PM**
6 **time you hung up with Bud Yager and the time 1:50:01PM**
7 **that Jeanne Yager called? 1:50:04PM**
8 A I believe I said I had walked down 1:50:05PM
9 to -- no, no, that was before Bud's fax. No. I 1:50:07PM
10 think I just -- I was waiting for her phone 1:50:10PM
11 call. 1:50:15PM
12 **Q Did you reach out to Snyder at all 1:50:19PM**
13 **during that period? 1:50:21PM**
14 A No. 1:50:22PM
15 **Q When was the first time that another 1:50:24PM**
16 **officer came on duty that morning? 1:50:26PM**
17 A I don't believe one did. 1:50:28PM
18 **Q And then at some point Jeanne Yager 1:50:36PM**
19 **called you? 1:50:39PM**
20 A Yes. 1:50:39PM
21 **Q Tell me everything you recall during 1:50:40PM**
22 **that phone conversation. 1:50:41PM**
23 A I basically just told her to tell me 1:50:43PM
24 what her story was, what happened. She 1:50:46PM
25 explained to me what had occurred, and I asked 1:50:50PM

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1 **GEORGE HESSE**
2 her to put that down in writing and fax it to me 1:50:54PM
3 if she could. 1:50:56PM
4 **Q Did you take any notes of what she 1:51:01PM**
5 **explained to you occurred? 1:51:04PM**
6 A No. 1:51:05PM
7 **Q How long was the call? 1:51:05PM**
8 A It was over the course of several 1:51:07PM
9 minutes. 1:51:09PM
10 **Q Just so I'm clear, you're the sole 1:51:11PM**
11 **investigator on the case, you have a phone 1:51:14PM**
12 **conversation with an alleged victim of a 1:51:17PM**
13 **choking, and you didn't take any notes; is that 1:51:20PM**
14 **correct? 1:51:22PM**
15 A That's correct. 1:51:23PM
16 MR. CONNOLLY: Objection. 1:51:24PM
17 BY MR. GOODSTADT: 1:51:25PM
18 **Q What did she tell you on that call? 1:51:25PM**
19 A She basically said that she was 1:51:29PM
20 standing first in line for the women's bathroom. 1:51:30PM
21 That she was waiting for a long time, several 1:51:35PM
22 minutes, maybe 15 minutes. She kept knocking on 1:51:37PM
23 the door with no response. A line had developed 1:51:41PM
24 behind her of other women waiting to go to the 1:51:44PM
25 bathroom. Eventually, the door flew open. A 1:51:47PM

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1 **GEORGE HESSE**
2 young lady came out and said something about 1:51:52PM
3 killing you, you old bitch or something like 1:51:54PM
4 that, to that effect, or you should die, 1:51:57PM
5 something like that. And then apparently a 1:52:01PM
6 boyfriend, a friend of this young female, had 1:52:05PM
7 come out of the bathroom and didn't say 1:52:08PM
8 anything, was holding onto the door, I believe, 1:52:12PM
9 and then lunged at Jeanne, grabbed her by the 1:52:14PM
10 throat and threw her into the wall or door of 1:52:18PM
11 the men's room and was banging her off the wall. 1:52:21PM
12 Then she said that Gary Bosetti came 1:52:25PM
13 over, grabbed the person off of her, put him 1:52:27PM
14 down on the floor and stopped him from choking 1:52:31PM
15 her. 1:52:34PM
16 **Q Did she actually see Gary Bosetti put 1:52:35PM**
17 **him down on the floor? 1:52:37PM**
18 MR. NOVIKOFF: Objection. 1:52:39PM
19 A I don't know. I'd have to read her 1:52:40PM
20 statement again. 1:52:42PM
21 **Q Well, sitting here, do you recall one 1:52:42PM**
22 **way or the other whether she told you that? 1:52:44PM**
23 A No, I don't recall. 1:52:46PM
24 **Q Did you ask her whether she was 1:52:47PM**
25 **drinking that night? 1:52:49PM**

35 (Pages 438 to 441)

Page 442

1 **GEORGE HESSE**
2 A No, I don't recall if I did or not. 1:52:50PM
3 **Q Why wouldn't you ask her that? 1:52:52PM**
4 A I didn't think it was relevant. 1:52:55PM
5 **Q You don't think it was relevant that 1:52:57PM**
6 **somebody is giving you an eyewitness statement, 1:52:59PM**
7 **you don't think it was relevant whether that 1:53:01PM**
8 **person had been drinking during the incident 1:53:03PM**
9 **that they were giving you an eyewitness 1:53:05PM**
10 **statement about? 1:53:07PM**
11 MR. CONNOLLY: Objection. Asked and 1:53:07PM
12 answered. 1:53:08PM
13 A I didn't ask her that. 1:53:09PM
14 **Q I just want to be -- make sure I'm 1:53:10PM**
15 **clear that's your answer there? 1:53:10PM**
16 MR. NOVIKOFF: Oh, I think he's been 1:53:12PM
17 crystal clear three times already. 1:53:12PM
18 MR. CONNOLLY: Objection. 1:53:14PM
19 BY MR. GOODSTADT: 1:53:14PM
20 **Q You didn't think it was relevant; is 1:53:14PM**
21 **that correct? 1:53:16PM**
22 A I did not ask her. 1:53:16PM
23 MR. CONNOLLY: Objection. 1:53:17PM
24 MR. NOVIKOFF: Objection. 1:53:17PM
25

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 1:53:17PM
3 **Q You didn't think it was relevant? You 1:53:18PM**
4 **can answer. 1:53:18PM**
5 MR. NOVIKOFF: Objection. 1:53:18PM
6 You can answer. 1:53:18PM
7 A I didn't think it was relevant, I 1:53:19PM
8 guess. 1:53:20PM
9 **Q And similar to the question I asked 1:53:22PM**
10 **you about her husband, do you think it could've 1:53:24PM**
11 **been -- that could have affected -- whether she 1:53:28PM**
12 **was drinking alcohol or not may have affected 1:53:29PM**
13 **her ability to recall events? 1:53:32PM**
14 MR. CONNOLLY: Objection to form. 1:53:34PM
15 You can answer. 1:53:34PM
16 A It may have. 1:53:35PM
17 **Q Did she eventually fax something to 1:53:41PM**
18 **you? 1:53:43PM**
19 A Yes. 1:53:44PM
20 **Q How long after you spoke with her did 1:53:45PM**
21 **she fax something to you? 1:53:47PM**
22 A I don't recall. 1:53:48PM
23 **Q Was it handwritten or typed, what she 1:53:49PM**
24 **faxed to you? 1:53:52PM**
25 A Handwritten. 1:53:53PM

Page 444

1 **GEORGE HESSE**
2 **Q Was it addressed to you, the fax? 1:53:54PM**
3 A You know, I don't recall if it was or 1:53:55PM
4 not. 1:53:57PM
5 **Q Do you recall anything else that was 1:54:03PM**
6 **discussed in the phone conversation that you had 1:54:04PM**
7 **with Jeanne Yager that you testified to before? 1:54:08PM**
8 A I don't recall at this time. 1:54:11PM
9 **Q Is there anything you can think of 1:54:13PM**
10 **that would refresh your recollection? 1:54:15PM**
11 A No. 1:54:16PM
12 (Whereupon, Bates document 3181-3182 1:54:29PM
13 was marked as Plaintiff's Exhibit 15 for 1:54:29PM
14 identification, as of this date.) 1:54:29PM
15 BY MR. GOODSTADT: 1:54:48PM
16 **Q Did Jeanne Yager tell you whether she 1:54:51PM**
17 **was in the bar when the on-duty officers 1:54:54PM**
18 **arrived? 1:54:56PM**
19 A I don't recall. I'd have to read her 1:55:00PM
20 statement. 1:55:03PM
21 **Q Did you ask her whether she was at the 1:55:03PM**
22 **bar when the on-duty officers arrived? 1:55:05PM**
23 A You know, I believe I did. 1:55:10PM
24 **Q Do you recall what she said? 1:55:12PM**
25 A I believe -- I remember her saying 1:55:15PM

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1 **GEORGE HESSE**
2 that she was standing by the bathrooms when the 1:55:17PM
3 police officers walked through the bar with one 1:55:20PM
4 of the individuals in the altercation, but 1:55:23PM
5 that's all I recall about that. 1:55:27PM
6 **Q Did you ask her why she didn't give a 1:55:29PM**
7 **statement to the police officers that night? 1:55:31PM**
8 MR. NOVIKOFF: Objection. Form. 1:55:34PM
9 A Yeah, later on. I believe she 1:55:35PM
10 attempted to walk to the police station; but 1:55:37PM
11 there was ambulance there, and she didn't want 1:55:39PM
12 to interfere. She felt that she didn't want to 1:55:41PM
13 bother anybody. 1:55:45PM
14 **Q She told you that? 1:55:47PM**
15 A That's -- yeah, that's what I recall. 1:55:48PM
16 **Q When did she tell you that? 1:55:51PM**
17 A I don't recall when, but I remember 1:55:52PM
18 her saying something to that effect. 1:55:54PM
19 **Q Was it during that phone conversation? 1:55:55PM**
20 A No. No, it was after. 1:55:57PM
21 **Q How many times after that first phone 1:55:59PM**
22 **conversation did you speak with Jeanne Yager 1:56:01PM**
23 **about the Halloween incident? 1:56:03PM**
24 A Over the course of four and a half 1:56:05PM
25 years, I don't know, 20 times. 1:56:08PM

36 (Pages 442 to 445)

Page 446

1 GEORGE HESSE
2 Q And when was the first time she told 1:56:14PM
3 you that she didn't want to bother anybody? 1:56:16PM
4 A It may have been at her house when 1:56:19PM
5 John Cherry and myself went there. 1:56:25PM
6 Q Did she tell you who she tried to go 1:56:36PM
7 to the police station with, if anyone? 1:56:38PM
8 A Yeah, I believe Rich Bosetti. 1:56:41PM
9 Q She tried to go with Rich Bosetti? 1:56:43PM
10 A Yes. 1:56:45PM
11 Q Did she tell you where she went when 1:56:46PM
12 she didn't want to bother anyone and stop into 1:56:49PM
13 the police station? 1:56:51PM
14 A Well, I think her and her husband had 1:56:52PM
15 walked down to CJ's. And Richie, I believe, 1:56:54PM
16 approached them and said, you know, you should 1:56:57PM
17 really go tell the officers what had happened. 1:57:00PM
18 And they attempted to do so, and then they saw 1:57:02PM
19 the ambulance; and I think they just said, well, 1:57:06PM
20 we'll do it later or something. I'm 1:57:08PM
21 speculating, but -- 1:57:10PM
22 MR. CONNOLLY: Don't speculate. 1:57:11PM
23 THE WITNESS: Sorry. 1:57:13PM
24 MR. CONNOLLY: Just testify upon your 1:57:13PM
25 knowledge. 1:57:14PM

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1 GEORGE HESSE
2 A Yeah, they just turned around. 1:57:15PM
3 Q Did she tell you how long after the 1:57:16PM
4 alleged choke that she tried to go to the police 1:57:19PM
5 station? 1:57:22PM
6 A No, I don't recall. 1:57:22PM
7 Q Did you ask her whether she had any 1:57:23PM
8 drinks in CJ's? 1:57:25PM
9 A No, I don't recall. 1:57:28PM
10 Q Did you ask her why she didn't try to 1:57:43PM
11 give a statement to the officers when she was in 1:57:46PM
12 the bar and the on-duty officers walked through 1:57:48PM
13 the bar? 1:57:51PM
14 A Yeah. At some point, Rich Bosetti had 1:57:53PM
15 gone outside to make contact with the three 1:57:55PM
16 police officers that were on duty, Fiorillo, 1:57:58PM
17 Lamm and Snyder, to address them and say that 1:58:01PM
18 Jean Yager was choked inside the bar, that they 1:58:03PM
19 may want to talk to them. And I believe the 1:58:07PM
20 response was no one was choked. I could never 1:58:09PM
21 ascertain who said it. Tom Snyder denied it, 1:58:15PM
22 and Chris -- they said that Christopher 1:58:18PM
23 Shallick, who was one of the individuals 1:58:23PM
24 involved in this incident, said it. 1:58:25PM
25 Q Said what? 1:58:27PM

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1 GEORGE HESSE
2 A That no one was choked. 1:58:28PM
3 Q Okay. 1:58:30PM
4 A But I was told that Snyder said it. 1:58:30PM
5 Q But just -- I guess I didn't get what 1:58:33PM
6 you meant. Richard Bosetti went out and tried 1:58:35PM
7 to make contact with the on-duty officers? How 1:58:40PM
8 do you know that? 1:58:43PM
9 A Because that's what I was told. 1:58:44PM
10 Q By who? 1:58:46PM
11 A By the three of them at some point and 1:58:47PM
12 by Rich Bosetti. 1:58:49PM
13 Q Do you know if Rich Bosetti was 1:58:51PM
14 drinking that night? 1:58:53PM
15 A I don't know for sure. 1:58:53PM
16 Q Did you ask him? 1:58:55PM
17 A I don't recall. 1:58:56PM
18 Q Okay. And so Rich Bosetti tried to 1:58:56PM
19 make contact with them. Did he make contact, to 1:58:59PM
20 your understanding? 1:59:02PM
21 A Yes. 1:59:03PM
22 Q How did you know he made contact? 1:59:03PM
23 A I was told. 1:59:05PM
24 Q By who? 1:59:06PM
25 A By Officer Fiorillo and Gary Bos- -- 1:59:07PM

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1 GEORGE HESSE
2 Rich Bosetti. 1:59:09PM
3 Q Okay. And what was the conversation 1:59:10PM
4 that was had outside the bar? 1:59:12PM
5 A I believe Frank had said that we're 1:59:14PM
6 handling it, we'll take care of it. And then 1:59:19PM
7 Richie had spoke to Snyder and tried to explain 1:59:23PM
8 to him that someone was choked. I don't know if 1:59:26PM
9 he specifically used her name or not. And the 1:59:30PM
10 term -- and, you know, someone blurted out, no 1:59:33PM
11 one was choked. Now, Rich Bosetti says it was 1:59:37PM
12 Snyder that said it; and Snyder denies it, and 1:59:40PM
13 Snyder thinks that Christopher Shallick may have 1:59:43PM
14 said it. 1:59:47PM
15 Q And what's the basis of your belief 1:59:47PM
16 that Snyder denied it and said Christopher 1:59:49PM
17 Shallick said it? 1:59:52PM
18 A That's what they had told me. 1:59:53PM
19 Q Who told you that? 1:59:56PM
20 A I believe Snyder told me that. 1:59:57PM
21 Q Did Snyder tell you that Rich 1:59:58PM
22 Bosetti -- that Snyder asked Rich Bosetti who 1:59:59PM
23 was choked? 2:00:00PM
24 A I don't remember specifically. 2:00:01PM
25 Q Did Rich Bosetti tell you that he 2:00:02PM

37 (Pages 446 to 449)

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1 **GEORGE HESSE**
2 **identified who was choked? 2:00:05PM**
3 A I don't remember specifically. 2:00:07PM
4 **Q Now, if you look at Hesse 15, is this 2:00:12PM**
5 **the facsimile that came in? 2:00:15PM**
6 A Yes. 2:00:19PM
7 **Q If you look at the top corner, it says 2:00:19PM**
8 **10-29-04. 2:00:22PM**
9 **Do you see that? 2:00:23PM**
10 A Right. 2:00:24PM
11 **Q That date is not accurate, is it? 2:00:25PM**
12 A No, that can't be. 2:00:28PM
13 **Q That's before the incident actually 2:00:29PM**
14 **happened, right? 2:00:30PM**
15 A Yes. 2:00:31PM
16 **Q Do you recall what time it actually 2:00:32PM**
17 **came in? 2:00:33PM**
18 A I don't recall, no. 2:00:34PM
19 MR. NOVIKOFF: Well, there is that 2:00:34PM
20 underlining line that appears -- 2:00:36PM
21 THE WITNESS: Oh, there is, yes. 2:00:38PM
22 MR. NOVIKOFF: -- it says 10/3. Can't 2:00:38PM
23 really make out the next space. 2:00:40PM
24 A 2964 and a 1951. 2:00:44PM
25 MR. GOODSTADT: Either way, it doesn't 2:00:47PM

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1 **GEORGE HESSE**
2 make sense, because that Monday was after 2:00:48PM
3 10-30 or 31. 2:00:50PM
4 MR. NOVIKOFF: Maybe the machine was 2:00:52PM
5 broken. 2:00:53PM
6 BY MR. GOODSTADT: 2:00:55PM
7 **Q Do you know why she wrote it to Ed 2:00:55PM**
8 **Paradiso instead of you? 2:01:00PM**
9 A I don't know. 2:01:02PM
10 **Q Did you ever ask her? 2:01:02PM**
11 A No. 2:01:03PM
12 **Q So this fax was in response to your 2:01:07PM**
13 **asking her to fax something in? 2:01:09PM**
14 A Yes. 2:01:11PM
15 **Q Did she mention who else she was with 2:01:19PM**
16 **on that line? 2:01:21PM**
17 A I believe she did, but she didn't know 2:01:26PM
18 who they were by name. 2:01:27PM
19 **Q So when you spoke to her, she told you 2:01:31PM**
20 **she didn't know who she was with by name? 2:01:33PM**
21 A She wasn't with anybody in particular, 2:01:36PM
22 just other women waiting on line. 2:01:38PM
23 **Q Okay. That's what she told you? 2:01:40PM**
24 A That's what I recall. 2:01:44PM
25 **Q Do you know whether she sought medical 2:01:50PM**

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1 **GEORGE HESSE**
2 **attention that night? 2:01:53PM**
3 A Repeat that. 2:01:56PM
4 **Q Did she -- did she indicate whether 2:01:58PM**
5 **she sought medical attention that night? 2:02:00PM**
6 A She did not. 2:02:02PM
7 **Q She did not. 2:02:03PM**
8 **Did you ask Richie Bosetti why he 2:02:04PM**
9 **didn't bring her into the station that night? 2:02:08PM**
10 A I believe I was told that they were 2:02:11PM
11 going to wait until the ambulance had left, but 2:02:17PM
12 then I don't think -- it never happened anyway, 2:02:20PM
13 so I don't know. 2:02:22PM
14 **Q So when the ambulance left, they 2:02:24PM**
15 **didn't go back; is that your testimony? 2:02:25PM**
16 A Right. 2:02:27PM
17 **Q Okay. Do you know why they didn't go 2:02:28PM**
18 **back? 2:02:30PM**
19 A I don't -- I don't know. 2:02:30PM
20 **Q Did you ask Rich Bosetti why? 2:02:32PM**
21 A I don't recall if I did. 2:02:33PM
22 **Q Did you ask Jean Yager why? 2:02:34PM**
23 A I don't recall if I did or not. 2:02:38PM
24 **Q Did you ask Bud Yager why? 2:02:40PM**
25 A I don't recall if I did or not. 2:02:43PM

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1 **GEORGE HESSE**
2 **Q Did you ask Rich Bosetti why he didn't 2:02:52PM**
3 **bring Jeanne Yager over to the on-duty officers 2:02:54PM**
4 **at Houser's? 2:02:58PM**
5 A I don't recall if I did or not. 2:02:59PM
6 **Q So you don't know one way or the 2:03:02PM**
7 **other? 2:03:03PM**
8 A No, I don't. 2:03:05PM
9 **Q Did he tell you why he didn't bring 2:03:06PM**
10 **her over to them at Houser's? 2:03:08PM**
11 A No. 2:03:10PM
12 MR. CONNOLLY: "Them" being the 2:03:10PM
13 officers at the scene? 2:03:11PM
14 BY MR. GOODSTADT: 2:03:12PM
15 **Q Rich Bosetti didn't bring Jean Yager 2:03:12PM**
16 **over to the on-duty officers at the scene. 2:03:15PM**
17 A Yeah, I don't recall. 2:03:18PM
18 **Q Did you ask him? 2:03:18PM**
19 A I don't recall if I did or not. 2:03:20PM
20 MR. GOODSTADT: Why don't we take a 2:03:32PM
21 break here and try to get in touch with the 2:03:33PM
22 judge. 2:03:35PM
23 THE VIDEOGRAPHER: The time is 2:05. 2:03:36PM
24 We're off the record. 2:03:37PM
25 (Whereupon, a discussion was held off 2:03:40PM)

38 (Pages 450 to 453)

Page 454

1 GEORGE HESSE
 2 the record.) 2:03:40PM
 3 THE VIDEOGRAPHER: The time is 2:09. 2:07:43PM
 4 We're on the record. 2:07:44PM
 5 BY MR. GOODSTADT: 2:07:49PM
 6 Q Now, when this fax came in from Jeanne 2:07:49PM
 7 Yager, did you discuss it with anybody on that 2:07:52PM
 8 day, other than for what you already testified 2:07:55PM
 9 to with your conversation with her? 2:07:58PM
 10 A I don't recall. 2:08:01PM
 11 Q Did you speak to her after she faxed 2:08:02PM
 12 it in on that day? 2:08:05PM
 13 A I don't recall. 2:08:07PM
 14 Q And at the time this fax came in, had 2:08:09PM
 15 you put anybody else on the investigation with 2:08:13PM
 16 you or were you still the sole investigator? 2:08:15PM
 17 A I was still alone. 2:08:18PM
 18 Q And after this fax came in, what was 2:08:20PM
 19 the next -- well, strike that. 2:08:24PM
 20 How long was it between you got off 2:08:26PM
 21 the phone with her and the fax came in? 2:08:29PM
 22 A I don't recall. 2:08:31PM
 23 Q Did you do anything with respect to 2:08:31PM
 24 the investigation between getting off the phone 2:08:32PM
 25 with Jeanne Yager and Hesse 15 being faxed in? 2:08:35PM

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1 GEORGE HESSE
 2 A I don't remember. 2:08:41PM
 3 Q So what was the next thing you recall 2:08:42PM
 4 doing with respect to the Halloween incident 2:08:45PM
 5 after receiving this fax? 2:08:47PM
 6 A You know what, I really don't recall 2:09:02PM
 7 what I did right after. 2:09:04PM
 8 Q Do you recall anything else you did on 2:09:05PM
 9 that day? 2:09:07PM
 10 A I believe -- I think I called either 2:09:09PM
 11 Bud or Jeanne back at some point, and I asked if 2:09:12PM
 12 they remember if anybody else was at the bar and 2:09:17PM
 13 who it was, who was bartending. 2:09:20PM
 14 Q You don't recall which person you 2:09:25PM
 15 called back and asked that to? 2:09:27PM
 16 A It was probably Jeanne, because I 2:09:29PM
 17 couldn't get in touch with Bud from the 2:09:30PM
 18 beginning, so... 2:09:33PM
 19 Q And what did she say in response to 2:09:36PM
 20 that question? 2:09:38PM
 21 A She gave me some names. 2:09:39PM
 22 Q What name did she give you? 2:09:42PM
 23 A I believe Dan McKenna was the 2:09:43PM
 24 bartender. She said Ian Levine was there. She 2:09:46PM
 25 said Cara McKenna was there. I don't recall too 2:09:56PM

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1 GEORGE HESSE
 2 many other names. She said she didn't know a 2:09:59PM
 3 lot of people there. 2:10:03PM
 4 Q And had you known Don McKenna before 2:10:04PM
 5 that time? 2:10:08PM
 6 A Dan. 2:10:09PM
 7 Q Dan McKenna? I apologize. 2:10:10PM
 8 A Yeah, I knew Dan. 2:10:11PM
 9 Q From being a bartender there or were 2:10:12PM
 10 you personal friends? 2:10:15PM
 11 MR. NOVIKOFF: Objection. 2:10:16PM
 12 MR. CONNOLLY: Objection, or something 2:10:17PM
 13 else. 2:10:19PM
 14 A I'm not personal friends with Dan 2:10:19PM
 15 McKenna. He's a member of the fire service over 2:10:19PM
 16 there, ambulance corps. 2:10:23PM
 17 Q Had you known Cara McKenna prior to 2:10:24PM
 18 then? 2:10:27PM
 19 A Yes. 2:10:28PM
 20 Q How did you know her? 2:10:29PM
 21 A She is a long-time resident. She's 2:10:30PM
 22 been born there. I know her parents. She also 2:10:32PM
 23 works in the village office. She's also a 2:10:35PM
 24 member of the fire service and ambulance corps. 2:10:38PM
 25 Q What did she do in the village office? 2:10:40PM

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1 GEORGE HESSE
 2 A Secretarial. 2:10:43PM
 3 Q And Ian Levine you knew before then, 2:10:48PM
 4 correct? 2:10:51PM
 5 A Yes. 2:10:51PM
 6 Q He's the same Ian Levine that you 2:10:52PM
 7 worked for at Sky Cable? 2:10:54PM
 8 A Yes. 2:10:56PM
 9 Q Did she tell you anything else during 2:10:56PM
 10 that phone conversation other than for those 2:10:57PM
 11 couple names? 2:11:00PM
 12 A Not that I recall, no. 2:11:01PM
 13 Q Do you recall anything else that was 2:11:03PM
 14 discussed between the two of you during that 2:11:04PM
 15 phone conversation? 2:11:06PM
 16 A I don't recall. 2:11:07PM
 17 Q Did you take any notes of that phone 2:11:07PM
 18 conversation? 2:11:09PM
 19 MR. NOVIKOFF: The second conversation 2:11:12PM
 20 with Jeanne Yager? 2:11:13PM
 21 MR. GOODSTADT: When he called her 2:11:15PM
 22 back. 2:11:17PM
 23 MR. NOVIKOFF: Got it. 2:11:18PM
 24 MR. GOODSTADT: We already went 2:11:18PM
 25 through the first, was no notes. 2:11:18PM

39 (Pages 454 to 457)

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1 GEORGE HESSE
2 A Yeah, I don't recall if I took notes. 2:11:18PM
3 Q If you took some notes, where would they be kept? 2:11:20PM
4 2:11:22PM
5 A They should be in the file. If I took any notes, they would be in the file. 2:11:24PM
6 2:11:26PM
7 Q Did you keep like a notebook in connection with this investigation? 2:11:28PM
8 2:11:30PM
9 A No. 2:11:31PM
10 Q So what would you have taken notes on? 2:11:33PM
11 A Maybe just a piece of scrap paper or something. 2:11:35PM
12 2:11:38PM
13 Q Sitting here today, you don't recall one way or the other whether there were notes of that conversation? 2:11:42PM
14 2:11:43PM
15 2:11:45PM
16 A No, I don't recall. 2:11:46PM
17 Q What was the next thing you did after speaking with Jeanne Yager that day with respect to Halloween incident? 2:11:50PM
18 2:11:52PM
19 2:11:54PM
20 A Repeat that question. I'm sorry. 2:11:58PM
21 Q Yeah, after you spoke with Jeanne Yager for the second time, what was the next thing you did that day with respect to the Halloween investigation? 2:12:00PM
22 2:12:02PM
23 2:12:05PM
24 2:12:08PM
25 A I believe I reached out to Ian Levine 2:12:10PM

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1 GEORGE HESSE
2 to find out if he had seen anything. 2:12:12PM
3 Q Did you get in touch with him? 2:12:19PM
4 A Yes. 2:12:20PM
5 Q You called him or you went the to him in person? 2:12:22PM
6 2:12:25PM
7 A I called him. 2:12:25PM
8 Q Okay. Tell me everything you recall on that phone conversation. 2:12:26PM
9 2:12:27PM
10 A I asked him about the night, if he had seen anything. He said that he remembers that one of the Bosetti brothers -- a lot of people had a hard time telling between the two Bosetti brothers. But he said one of the Bosetti brothers was in a fight. He called the police department's direct number to get somebody down there quick to help out either Richie or Gary. 2:12:30PM
11 2:12:32PM
12 2:12:40PM
13 2:12:43PM
14 2:12:46PM
15 2:12:46PM
16 2:12:48PM
17 2:12:50PM
18 2:12:53PM
19 2:12:58PM
20 approximately, I think, 10 minutes had gone by before the police had arrived. And that's all I recall at this time. I know he gave a statement. 2:13:01PM
21 2:13:03PM
22 2:13:06PM
23 2:13:08PM
24 Q Did he tell you that he witnessed any part of the fight? 2:13:09PM
25 2:13:10PM

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1 GEORGE HESSE
2 A Just the end part. He didn't see the beginning. 2:13:11PM
3 2:13:15PM
4 Q What end part did he tell you he witnessed? 2:13:15PM
5 2:13:18PM
6 A That Bosetti was over -- either standing over or squatting over. I'd have to read his statement to recall. He remembers seeing his shield out, and that's all I recall at this time. 2:13:19PM
7 2:13:24PM
8 2:13:26PM
9 2:13:28PM
10 2:13:30PM
11 Q Did he tell you that he saw one of the Bosettis use a pool cue? 2:13:31PM
12 2:13:34PM
13 A Not that I recall. 2:13:36PM
14 Q Did you ask him whether he was drinking that night? 2:13:44PM
15 2:13:45PM
16 A No. 2:13:46PM
17 Q How come? 2:13:47PM
18 A I don't recall why. 2:13:48PM
19 Q Do you think it would be relevant if an eyewitness who was giving you a statement was drinking that night? 2:13:50PM
20 2:13:51PM
21 2:13:53PM
22 MR. NOVIKOFF: Objection. 2:13:55PM
23 A It could have been. 2:13:55PM
24 Q Did you take any notes of the phone call you had with Mr. Levine? 2:13:57PM
25 2:13:58PM

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1 GEORGE HESSE
2 A I don't believe I did. 2:14:00PM
3 Q How come? 2:14:01PM
4 A Because I knew he was going to come in and give a statement, and it was just I didn't need to take notes. 2:14:01PM
5 2:14:03PM
6 2:14:05PM
7 Q Tell me everything else you recall about the conversation you had with Mr. Levine on the phone that day. 2:14:14PM
8 2:14:15PM
9 2:14:17PM
10 A I believe I asked him if he knew of anybody else that was there that he remembers. I think he gave me a couple more names. 2:14:19PM
11 2:14:21PM
12 2:14:26PM
13 Q What names did he give you? 2:14:29PM
14 A I believe he gave me Sean O'Rourke, Doug Wyckoff. I think he also -- because I asked who was -- if there were any other bartenders besides Dan. I don't recall offhand if he told me anybody else's names. 2:14:31PM
15 2:14:34PM
16 2:14:37PM
17 2:14:38PM
18 2:14:44PM
19 Q Did you ask him why he didn't give a statement to the police that night? 2:14:48PM
20 2:14:50PM
21 A I don't recall. 2:14:55PM
22 Q Was he at the bar when the on-duty police officers arrived? 2:14:56PM
23 2:14:58PM
24 A Yes. 2:15:02PM
25 MR. NOVIKOFF: Was he told that by 2:15:04PM

40 (Pages 458 to 461)

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1 GEORGE HESSE
2 Mr. Levine if he was at the bar. 2:15:06PM
3 MR. GOODSTADT: Yeah. 2:15:09PM
4 BY MR. GOODSTADT: 2:15:09PM
5 Q Did he tell you that he was there when 2:15:09PM
6 the on-duty police officers arrived? 2:15:11PM
7 A Yes. 2:15:12PM
8 Q Do you know whether he spoke with the 2:15:13PM
9 on-duty police officers? 2:15:14PM
10 A I don't recall. 2:15:15PM
11 Q Did you ask whether he spoke with the 2:15:15PM
12 on-duty police officers? 2:15:17PM
13 A I don't recall. 2:15:19PM
14 Q Just so I'm clear, to your 2:15:22PM
15 understanding or knowledge, he never reached out 2:15:24PM
16 to give a witness statement; you're the one that 2:15:29PM
17 reached out to him, correct? 2:15:31PM
18 A That's correct, yes. 2:15:33PM
19 Q Do you recall anything else that was 2:15:39PM
20 discussed during that phone conversation? 2:15:40PM
21 A I don't recall. 2:15:46PM
22 Q How did you know he was going to come 2:15:48PM
23 in and give a statement? 2:15:49PM
24 A Because I asked him to. 2:15:51PM
25 Q Did he ever come in and give a 2:15:53PM

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1 GEORGE HESSE
2 statement? 2:15:55PM
3 A Yes. 2:15:55PM
4 Q When? 2:15:55PM
5 A I don't know the exact date. It may 2:15:56PM
6 have been the next day. 2:15:58PM
7 Q That Tuesday? 2:16:00PM
8 A It may have been. I don't know. I 2:16:01PM
9 know you have the statements, so... 2:16:02PM
10 Q It's your recollection it was that 2:16:05PM
11 Tuesday? 2:16:07PM
12 A No. I don't recall. 2:16:07PM
13 Q Did you ask him whether he saw Gary 2:16:13PM
14 Bosetti use a pool cue? 2:16:16PM
15 A I didn't -- I didn't take his 2:16:18PM
16 statement, so I don't recall, no. 2:16:21PM
17 Q During the phone conversation you had. 2:16:22PM
18 A You know, I don't recall. 2:16:25PM
19 Q So after the phone conversation you 2:16:34PM
20 had with Ian Levine, what was the next thing 2:16:35PM
21 that you did in connection with the 2:16:38PM
22 investigation? 2:16:40PM
23 A Now that I knew Doug Wyckoff was 2:16:41PM
24 there, I think I tried to locate him. 2:16:44PM
25 Q Okay. And this is Doug Wyckoff, the 2:16:47PM

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1 GEORGE HESSE
2 husband of Dale Wyckoff, the former husband of 2:16:50PM
3 Dale Wyckoff, father of Marissa Wyckoff, who 2:16:54PM
4 worked in the police department; is that 2:16:58PM
5 correct? 2:16:59PM
6 A Yes. 2:17:00PM
7 Q And did you reach out to Mr. Wyckoff? 2:17:01PM
8 A I don't remember how I got in touch 2:17:07PM
9 with him. I think I ran into him. 2:17:08PM
10 Q You ran into him? 2:17:11PM
11 A Yeah. 2:17:13PM
12 Q Where? 2:17:13PM
13 A Outside the police station. 2:17:14PM
14 Q So the next thing you did, you're 2:17:17PM
15 going to reach out to Doug Wyckoff and you just 2:17:19PM
16 happen to run into him? 2:17:22PM
17 A It's a small village. Yeah. 2:17:25PM
18 Q Did you go outside looking for him? 2:17:26PM
19 A You know, I don't recall. 2:17:29PM
20 Q Was anyone else with you when you ran 2:17:32PM
21 into Doug Wyckoff? 2:17:33PM
22 A I don't believe so, no. 2:17:35PM
23 Q Was anyone else with him when you ran 2:17:36PM
24 into Doug Wyckoff? 2:17:38PM
25 A I don't know. I don't recall. 2:17:40PM

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1 GEORGE HESSE
2 Q And did you speak with Doug Wyckoff 2:17:40PM
3 when you ran into him? 2:17:42PM
4 A Yes. 2:17:44PM
5 Q Tell me everything you recall that was 2:17:44PM
6 stated during that discussion. 2:17:46PM
7 A I asked him if he witnessed any of the 2:17:49PM
8 events of that night. He said yes, that he 2:17:51PM
9 actually got involved. And I asked if he would 2:17:54PM
10 be willing to give a statement, and he said yes. 2:17:59PM
11 And he came in and gave a statement. 2:18:01PM
12 Q Did he tell you any of the events 2:18:03PM
13 during the conversation outside that he 2:18:07PM
14 witnessed? 2:18:09PM
15 A I don't recall if he told me 2:18:11PM
16 specifics. 2:18:14PM
17 Q And had he come forward with a 2:18:17PM
18 statement prior to you seeing him that 2:18:20PM
19 morning -- strike that. 2:18:22PM
20 What time of day was it? 2:18:23PM
21 A I don't recall what time. 2:18:25PM
22 Q But it was still that same Monday? 2:18:26PM
23 A I believe so, yeah. 2:18:28PM
24 Q And prior to you running into him, had 2:18:29PM
25 he reached out to the police department at all, 2:18:31PM

41 (Pages 462 to 465)

Page 466

1 **GEORGE HESSE**
2 **do you know, to give a statement?** 2:18:34PM
3 A Not that I know of. 2:18:36PM
4 **Q And had he given a statement prior to** 2:18:37PM
5 **that?** 2:18:39PM
6 A Not that I know of. 2:18:39PM
7 **Q Did you ask him whether he was in the** 2:18:45PM
8 **bar at the time the on-duty officers got there?** 2:18:46PM
9 A I don't recall if I asked him that 2:18:51PM
10 specific question. 2:18:53PM
11 **Q Did you ask him why he didn't give a** 2:18:53PM
12 **statement that night?** 2:18:56PM
13 A You know what, I think I did, and he 2:18:58PM
14 said that no one asked him what happened. 2:19:00PM
15 **Q Did you ask him why he didn't go to** 2:19:02PM
16 **the police station?** 2:19:04PM
17 A I don't recall if I did or not. 2:19:06PM
18 MR. GOODSTADT: Let's go off the 2:19:18PM
19 record for one second. 2:19:18PM
20 THE VIDEOGRAPHER: The time is 2:21. 2:19:20PM
21 We're off the record. 2:19:21PM
22 (Whereupon, a discussion was held off 2:22:14PM
23 the record.) 2:22:14PM
24 THE VIDEOGRAPHER: The time is 2:24. 2:22:16PM
25 We're on the record. 2:22:17PM

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 2:22:21PM
3 **Q Do you recall anything else that was** 2:22:21PM
4 **discussed between you and Mr. Wyckoff in that** 2:22:22PM
5 **conversation outside?** 2:22:25PM
6 A Specifically, no. 2:22:26PM
7 **Q Did you take any notes of that** 2:22:28PM
8 **conversation?** 2:22:30PM
9 A No. 2:22:30PM
10 **Q Why not?** 2:22:30PM
11 A I think I took his statement. 2:22:32PM
12 **Q You took his statement outside?** 2:22:33PM
13 A No. I think we walked right into the 2:22:35PM
14 police station. 2:22:37PM
15 **Q Okay. So you took his statement on** 2:22:38PM
16 **that day?** 2:22:40PM
17 A You know, I don't recall if it was 2:22:40PM
18 that day, to tell you the truth. 2:22:42PM
19 **Q So your statement that we just walked** 2:22:43PM
20 **back to the police station and took his** 2:22:43PM
21 **statement may not be true?** 2:22:43PM
22 MR. NOVIKOFF: Objection. 2:22:48PM
23 MR. CONNOLLY: Objection. 2:22:48PM
24 A I don't recall four and a half years 2:22:50PM
25 ago. 2:22:52PM

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1 **GEORGE HESSE**
2 **Q You don't recall what day it was?** 2:22:59PM
3 A No. 2:23:01PM
4 **Q Did he definitely come into the police** 2:23:07PM
5 **station on the day that you saw him outside?** 2:23:09PM
6 A You know, I don't recall. I'm not 2:23:12PM
7 going to guess. 2:23:15PM
8 **Q Did you ask whether he was drinking?** 2:23:18PM
9 A I don't recall. 2:23:22PM
10 **Q You don't recall one way or the other?** 2:23:23PM
11 A No. 2:23:25PM
12 **Q Do you think that would be an** 2:23:27PM
13 **important fact to know, whether Mr. Wyckoff was** 2:23:28PM
14 **drinking that night?** 2:23:31PM
15 MR. NOVIKOFF: Objection. 2:23:32PM
16 A Could be. 2:23:33PM
17 **Q What do you mean, it could be?** 2:23:35PM
18 A It could be relevant. 2:23:37PM
19 **Q Why would it be relevant?** 2:23:40PM
20 MR. NOVIKOFF: Objection. 2:23:42PM
21 A May impair his judgment or his 2:23:43PM
22 recollection. 2:23:50PM
23 **Q So don't you think it of would have** 2:23:54PM
24 **been important to ask him that question?** 2:23:56PM
25 MR. NOVIKOFF: Objection. 2:23:58PM

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1 **GEORGE HESSE**
2 MR. CONNOLLY: Objection. 2:23:59PM
3 A It could've been. 2:23:59PM
4 MR. GOODSTADT: Just mark that. 2:24:02PM
5 (Whereupon, Bates document 3165-3166 2:24:03PM
6 was marked as Plaintiff's Exhibit 16 for 2:24:03PM
7 identification, as of this date.) 2:24:03PM
8 MR. GOODSTADT: I've placed in front 2:24:26PM
9 of Mr. Hesse what's now been marked as 2:24:27PM
10 Hesse 16. It is a two-page exhibit bearing 2:24:30PM
11 Bates 3165 and 3166. (Handing.) 2:24:35PM
12 BY MR. GOODSTADT: 2:24:38PM
13 **Q Mr. Hesse, is this the witness** 2:24:39PM
14 **statement that you took of Mr. Wyckoff?** 2:24:40PM
15 A Yes. 2:24:42PM
16 **Q Do you see on the bottom left it has** 2:24:45PM
17 **"name of preparing officer"?** 2:24:46PM
18 **Do you see that?** 2:24:48PM
19 A Yes. 2:24:48PM
20 **Q Is that your handwriting and** 2:24:50PM
21 **signature?** 2:24:51PM
22 A Yes. 2:24:52PM
23 **Q And you were sergeant at the time?** 2:24:55PM
24 A Yes. 2:24:57PM
25 **Q Okay. And the -- on the bottom right,** 2:24:57PM

42 (Pages 466 to 469)

Page 470

1 **GEORGE HESSE**
2 **you see he signed it 11-2-04. 2:25:01PM**
3 **Do you see that? 2:25:04PM**
4 A Yes. 2:25:05PM
5 **Q Is that the date that you actually 2:25:05PM**
6 **took the statement? 2:25:07PM**
7 A Yes. 2:25:08PM
8 **Q Does that refresh your recollection as 2:25:09PM**
9 **to whether that was the Monday? 2:25:12PM**
10 A That would have to be Tuesday, then. 2:25:14PM
11 **Q Tuesday. Okay. 2:25:17PM**
12 **So just so I get a time line correct 2:25:17PM**
13 **here, did you have the conversation with him 2:25:19PM**
14 **outside the police station on Monday or Tuesday? 2:25:21PM**
15 A I don't recall. 2:25:24PM
16 **Q Okay. 2:25:25PM**
17 MR. NOVIKOFF: I'm sorry, is two 2:25:26PM
18 minutes up? 2:25:29PM
19 THE REPORTER: Yeah. 2:25:31PM
20 MR. NOVIKOFF: I want to put on the 2:25:33PM
21 record that I believe Mr. Goodstadt's seven 2:25:33PM
22 hours has ended, but then again, I leave 2:25:34PM
23 that to Mr. Connolly to decide what to do 2:25:37PM
24 going forward. 2:25:41PM
25 MR. CONNOLLY: Mr. Goodstadt, you can 2:25:42PM

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1 **GEORGE HESSE**
2 finish questioning regarding this exhibit. 2:25:44PM
3 MR. GOODSTADT: Okay. Four and a half 2:25:47PM
4 hours on this exhibit, are you okay with 2:25:50PM
5 that? 2:25:52PM
6 MR. NOVIKOFF: All right then. 2:25:55PM
7 MR. CONNOLLY: Yes, four and a half 2:25:56PM
8 hours limited to this exhibit. 2:25:58PM
9 BY MR. GOODSTADT: 2:26:00PM
10 **Q So it's possible that there was a gap 2:26:01PM**
11 **of a day between your conversation outside and 2:26:03PM**
12 **the day you took his statement, correct? 2:26:05PM**
13 A Sure. 2:26:08PM
14 **Q Okay. Did you ask Mr. Wyckoff why he 2:26:08PM**
15 **didn't give a statement at the bar that night? 2:26:13PM**
16 MR. NOVIKOFF: Objection. Asked and 2:26:15PM
17 answered. 2:26:16PM
18 A I believe he said to me that no one 2:26:20PM
19 approached him or asked him what happened. 2:26:22PM
20 **Q Did you ask him whether he saw the 2:26:24PM**
21 **on-duty officers there that night? 2:26:26PM**
22 A I don't recall. 2:26:28PM
23 **Q Did you ask him whether any of the 2:26:29PM**
24 **officers went back into the bar and asked a 2:26:31PM**
25 **general question to everyone in the bar, did 2:26:33PM**

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1 **GEORGE HESSE**
2 **anyone see what happened this evening? 2:26:36PM**
3 A Repeat that. 2:26:38PM
4 **Q Did you ask him whether about of the 2:26:39PM**
5 **on-duty officers went back into the bar that 2:26:40PM**
6 **evening and asked generally to everyone that was 2:26:44PM**
7 **there, did anyone see what happened? 2:26:46PM**
8 A I don't recall anything like that, no. 2:26:49PM
9 **Q Did you ever hear that Tom Snyder went 2:26:50PM**
10 **back in the bar and asked that question? 2:26:53PM**
11 A No. 2:26:56PM
12 **Q Snyder never told you that? 2:26:58PM**
13 A No. 2:26:59PM
14 **Q If you look down -- well, strike that. 2:27:00PM**
15 **Is this the -- this is the witness 2:27:03PM**
16 **statement that he gave you? 2:27:04PM**
17 A Yes. 2:27:05PM
18 **Q And is this your handwriting? I know 2:27:06PM**
19 **that may be his signature on the bottom right. 2:27:06PM**
20 **But other than that, is this your handwriting? 2:27:08PM**
21 A Yes. 2:27:12PM
22 **Q Second page also, other than for his 2:27:12PM**
23 **signature, is that your handwriting? 2:27:14PM**
24 A Yes. 2:27:16PM
25 **Q Was anyone else there when you took 2:27:16PM**

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1 **GEORGE HESSE**
2 **his statement? 2:27:18PM**
3 A I don't recall either way. 2:27:19PM
4 **Q Do you recall what time on the 2nd he 2:27:20PM**
5 **gave you this statement? 2:27:23PM**
6 A No, I don't recall. 2:27:23PM
7 **Q Do you recall what other statements 2:27:24PM**
8 **you had prior to Wyckoff giving you this 2:27:26PM**
9 **statement? 2:27:28PM**
10 A Say that again. 2:27:28PM
11 **Q Do you recall what other -- which 2:27:29PM**
12 **other witness statements you had prior to taking 2:27:30PM**
13 **Wyckoff's? 2:27:32PM**
14 A At this time, I don't recall, no. 2:27:33PM
15 **Q Is there anything that you can think 2:27:35PM**
16 **of that would refresh your recollection? 2:27:36PM**
17 A The entire Halloween file. 2:27:38PM
18 **Q Anything else? 2:27:41PM**
19 A No. 2:27:42PM
20 **Q Then if you look down the fourth line 2:27:45PM**
21 **down in the text there on Page 1 of Hesse 16, it 2:27:48PM**
22 **says, "I observed a large male, built like a 2:27:54PM**
23 **fireplug, now known to me as Christopher 2:27:57PM**
24 **Shallick." 2:28:00PM**
25 **Do you see that? 2:28:00PM**

43 (Pages 470 to 473)

Page 474	Page 476
<p>1 GEORGE HESSE</p> <p>2 A Yes. 2:28:01PM</p> <p>3 Q "Of 63 Maple Place Huntington, New York." 2:28:02PM</p> <p>4 2:28:07PM</p> <p>5 Do you see that? 2:28:07PM</p> <p>6 A Yes. 2:28:07PM</p> <p>7 Q How did he learn that that was Christopher Shallick of 63 Maple Place, Huntington, New York? 2:28:09PM</p> <p>8 2:28:09PM</p> <p>9 2:28:09PM</p> <p>10 A I laid out a couple of licenses that these officers had photo- -- I think photocopied, and he said that was the guy right there. 2:28:10PM 2:28:13PM 2:28:15PM 2:28:18PM</p> <p>11 Q Okay. So the fact that you laid out licenses and had like sort of a license lineup -- 2:28:18PM 2:28:22PM 2:28:25PM</p> <p>12 A Pretty much. 2:28:26PM</p> <p>13 Q -- that's not reflected anywhere in here, is it? 2:28:27PM 2:28:29PM</p> <p>14 A No. 2:28:30PM</p> <p>15 Q In the statement? 2:28:30PM</p> <p>16 A No. 2:28:30PM</p> <p>17 Q How come? 2:28:31PM</p> <p>18 A I don't know. 2:28:33PM</p> <p>19 Q It says on this Page 2 of Exhibit 2:28:44PM</p>	<p>1 GEORGE HESSE</p> <p>2 what happened? 2:29:34PM</p> <p>3 MR. NOVIKOFF: Objection. 2:29:35PM</p> <p>4 A That's what I recall. That's what he told me. 2:29:36PM 2:29:37PM</p> <p>5 Q And then in response to that, you did or did not ask him why he didn't proactively seek to give a statement to the on-duty officers? 2:29:38PM 2:29:41PM 2:29:44PM 2:29:46PM</p> <p>6 MR. CONNOLLY: Objection to form. 2:29:47PM</p> <p>7 MR. NOVIKOFF: Objection. 2:29:49PM</p> <p>8 A I don't recall. 2:29:49PM</p> <p>9 Q You don't recall whether you did? 2:29:49PM</p> <p>10 A No. 2:29:51PM</p> <p>11 MR. GOODSTADT: I think I'm done with this exhibit for now. 2:30:07PM 2:30:08PM</p> <p>12 MR. CONNOLLY: Okay. Why don't we take a two-minute break and figure out what we're going to do. 2:30:09PM 2:30:10PM 2:30:12PM</p> <p>13 THE VIDEOGRAPHER: The time is 2:32. We're off the record. 2:30:15PM 2:30:16PM</p> <p>14 (Whereupon, a discussion was held off the record.) 2:30:18PM 2:30:18PM</p> <p>15 (Whereupon, Magistrate Boyle was called.) 2:30:18PM 2:30:18PM</p>
Page 475	Page 477
<p>1 GEORGE HESSE</p> <p>2 Hesse 16, the one, two, three, four, fifth line down, it says, "The doorman, Sean O'Rourke." 2:28:53PM 2:28:56PM</p> <p>3 Do you see that? 2:28:58PM</p> <p>4 A Yes. 2:28:59PM</p> <p>5 Q "Doorman, Sean O'Rourke, came over to help keep Christopher out of the bar." 2:28:59PM 2:29:03PM</p> <p>6 Do you see that? 2:29:05PM</p> <p>7 A Yes. 2:29:06PM</p> <p>8 Q It says, "Sean phoned the police." Do you see that? 2:29:07PM 2:29:09PM</p> <p>9 A Yes. 2:29:10PM</p> <p>10 Q Is it your understanding that Sean O'Rourke called the police that night? 2:29:11PM 2:29:13PM</p> <p>11 A Yes. 2:29:15PM</p> <p>12 Q And that's a separate call than Ian Levine's? 2:29:16PM 2:29:19PM</p> <p>13 A Yes. 2:29:21PM</p> <p>14 Q And then the last sentence that says, "They never asked me or anyone if I could see any questions about what happened." Do you see that? 2:29:21PM 2:29:23PM 2:29:26PM 2:29:29PM</p> <p>15 A Yeah. 2:29:30PM</p> <p>16 Q Is that the statement that you testified to before, that no one had asked him 2:29:31PM 2:29:32PM</p>	<p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: We are -- as you recall, we had made a motion to extend the time to take Defendant George Hesse's deposition beyond the seven hours. 3:03:01PM 3:03:03PM 3:03:07PM 3:03:09PM</p> <p>3 THE COURT: Yes. 3:03:11PM</p> <p>4 MR. GOODSTADT: And you had denied that without prejudice with the right to renew when we reached the seven-hour point. And we've now reached the seven-hour point, and we'd like to renew our request for an additional four and a half hours. 3:03:12PM 3:03:13PM 3:03:16PM 3:03:18PM 3:03:21PM 3:03:24PM</p> <p>5 THE COURT: These are really elaborate motions because you really have to justify your -- what you have to cover and why you didn't cover it in the time allotted. And I've done opinions on this, and, you know, that's why I tried to set up a conference call last week to urge you to do some kind of a conference just to eliminate the paperwork. But if you can't agree on it, make your motion. But do your research on it. These are simple issues that you made in your motion; and if you use your same old motion, it would be denied. 3:03:26PM 3:03:26PM 3:03:30PM 3:03:34PM 3:03:38PM 3:03:42PM 3:03:45PM 3:03:49PM 3:03:53PM 3:03:55PM 3:03:57PM 3:04:02PM 3:04:04PM</p>

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1 GEORGE HESSE
2 MR. GOODSTADT: Okay. So we'll be 3:04:07PM
3 happy to submit a brief on the issue. 3:04:10PM
4 THE COURT: Read the case. Are the 3:04:15PM
5 defendants there? 3:04:16PM
6 MR. CONNOLLY: Yes, we are, Your 3:04:17PM
7 Honor. 3:04:17PM
8 THE COURT: Is there any way you'll 3:04:18PM
9 consent to like an extension of two hours or 3:04:20PM
10 something? The defense should speak up to 3:04:22PM
11 that. 3:04:22PM
12 MR. CONNOLLY: Your Honor, we had 3:04:25PM
13 offered earlier an extension of 90 minutes. 3:04:26PM
14 We're already 20 minutes beyond the seven 3:04:29PM
15 hours, and my understanding is we've already 3:04:31PM
16 gotten 475 pages of deposition transcript. 3:04:31PM
17 THE COURT: So you did your seven 3:04:37PM
18 hours, did you? 3:04:40PM
19 MR. CONNOLLY: And seven hours and 20 3:04:41PM
20 minutes. 3:04:42PM
21 THE COURT: My suggestion would be to 3:04:45PM
22 see how you can work it out. Do you have 3:04:46PM
23 any offer at all or do you want to go 3:04:49PM
24 through a motion? Because you're probably 3:04:53PM
25 going to end up submitting your second 3:04:54PM

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1 GEORGE HESSE
2 deposition. 3:04:58PM
3 MR. CONNOLLY: Your Honor, we did 3:04:58PM
4 offer -- 3:04:58PM
5 THE COURT: The issue being -- you 3:04:58PM
6 know, being the length of time. 3:04:59PM
7 MR. CONNOLLY: Your Honor, the 3:05:01PM
8 defendant did offer an additional 3:05:02PM
9 90 minutes. 3:05:04PM
10 THE COURT: Is that anything you're 3:05:08PM
11 interested in? 3:05:09PM
12 MR. GOODSTADT: Well, Your Honor, any 3:05:10PM
13 extra time certainly helps, but this is, as 3:05:12PM
14 we wrote in our letter, certainly the most 3:05:14PM
15 important witness in the entire case, who is 3:05:16PM
16 involved with almost each and every 3:05:19PM
17 allegation in the 193-paragraph complaint. 3:05:21PM
18 There's thousands of pages of documents, 3:05:24PM
19 most of which relate to this witness. I 3:05:26PM
20 believe I've been, you know, pretty good 3:05:29PM
21 about getting through a lot of the topics. 3:05:33PM
22 I don't think that I've delayed or 3:05:35PM
23 procrastinated or spent much time on 3:05:37PM
24 anything that would be irrelevant, and 3:05:40PM
25 there's just a lot of to go through. I 3:05:41PM

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1 GEORGE HESSE
2 mean, even Mr. Novikoff's letter to the 3:05:44PM
3 Court from weeks ago requesting extension of 3:05:46PM
4 the discovery schedule demonstrated that 3:05:48PM
5 this is a very important witness who -- you 3:05:51PM
6 know, who defendants plan to spend several 3:05:53PM
7 hours with as well questioning. 3:05:56PM
8 MR. NOVIKOFF: Your Honor, this is 3:05:58PM
9 Mr. Novikoff. 3:05:59PM
10 I was going to hopefully remain quiet 3:06:00PM
11 for once in my life because Mr. Hesse is not 3:06:03PM
12 my client. But since I've been brought into 3:06:05PM
13 this, the only thing I will say is I've 3:06:08PM
14 taken each of the plaintiffs' depositions on 3:06:10PM
15 the same allegations in under seven hours, 3:06:12PM
16 and I have not asked for one extension of 3:06:14PM
17 time for any of the plaintiffs. And also in 3:06:16PM
18 my respectful opinion, Mr. Goodstadt has 3:06:19PM
19 spent a considerable amount of time on 3:06:22PM
20 either irrelevant issues or issues that 3:06:25PM
21 really were not in dispute in terms of what 3:06:27PM
22 he believes are relevant facts in this case. 3:06:31PM
23 But it's Mr. Connolly's client, so other 3:06:34PM
24 than just saying that, I'm out of it. 3:06:37PM
25 THE COURT: Mr. Connolly, do you want 3:06:41PM

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1 GEORGE HESSE
2 to say something? 3:06:42PM
3 MR. CONNOLLY: Yes, Your Honor. I 3:06:43PM
4 feel what we've offered to do is more than 3:06:44PM
5 fair. And, you know, there's been no claim 3:06:47PM
6 that the questioning was impeded in any 3:06:49PM
7 manner, and I feel that if it was structured 3:06:51PM
8 in a different way, we could've been done 3:06:54PM
9 under the seven. 3:06:56PM
10 THE COURT: All right. My only 3:06:58PM
11 suggestion to you -- and I'm just stating 3:07:00PM
12 the obvious, so it's not going to be any 3:07:01PM
13 surprise. The plaintiff is looking for 3:07:04PM
14 another four and a half. You're offering 3:07:07PM
15 90 minutes. Why don't you split it down to 3:07:09PM
16 the middle and do two and a quarter hours, 3:07:12PM
17 and you can save yourselves a lot of 3:07:14PM
18 paperwork and indefiniteness and you can 3:07:17PM
19 wind this up today. 3:07:21PM
20 MR. CONNOLLY: Well, Your Honor, while 3:07:22PM
21 I appreciate the Court's suggestion, I feel 3:07:24PM
22 beyond 90 minutes -- 3:07:30PM
23 THE COURT: You don't even have to 3:07:33PM
24 comment, okay. I can't do anything else 3:07:34PM
25 right now. So go ahead and make your motion 3:07:36PM

45 (Pages 478 to 481)

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1 GEORGE HESSE
2 if you can't resolve it. 3:07:39PM
3 MR. GOODSTADT: Thank you, Your Honor. 3:07:41PM
4 MR. CONNOLLY: Thank you. 3:07:42PM
5 MR. NOVIKOFF: Thank you. 3:07:44PM
6 (Whereupon, a discussion was held off 3:07:44PM
7 the record.) 3:07:44PM
8 MR. GOODSTADT: After the conference 3:25:41PM
9 call we had with the Court where the Court 3:25:43PM
10 suggest we try to work something out without 3:25:46PM
11 having the need to submit written motions, 3:25:49PM
12 we have not been able to work out an 3:25:52PM
13 agreeable extension for Mr. Hesse's 3:25:56PM
14 deposition. So we plan to make a motion to 3:25:58PM
15 the Court for additional time pursuant to 3:26:00PM
16 the Judge's directive. And I guess based on 3:26:02PM
17 what the court rules, we'll determine when 3:26:06PM
18 and for how long we reconvene. 3:26:09PM
19 MR. NOVIKOFF: Just so it's clear, you 3:26:13PM
20 are keeping the deposition open. 3:26:14PM
21 MR. GOODSTADT: Yes. 3:26:16PM
22 MR. NOVIKOFF: You're not ending it, 3:26:16PM
23 and it's open subject to your application to 3:26:18PM
24 Judge Boyle for additional time. And 3:26:20PM
25 therefore, on behalf of the village 3:26:23PM

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1 GEORGE HESSE
2 defendants, I reserve my right to question 3:26:25PM
3 Mr. Hesse until such time as the deposition 3:26:28PM
4 is officially closed either by Mr. Goodstadt 3:26:31PM
5 indicating such or the Court indicating that 3:26:35PM
6 Mr. Goodstadt has no additional time. 3:26:36PM
7 MR. CONNOLLY: And so the record is 3:26:39PM
8 clear, at this juncture, we have gone on for 3:26:41PM
9 seven hours and 20 minutes. 3:26:44PM
10 MR. GOODSTADT: The record will 3:26:46PM
11 reflect how long we've gone on for. 3:26:47PM
12 MR. TERMINI: I would just simply 3:26:51PM
13 reserve any rights when it finally becomes 3:26:52PM
14 the County of Suffolk's turn. 3:26:55PM
15 (Time noted 3:26 p.m.) 3:26:59PM
16 3:26:59PM
17 GEORGE HESSE 3:26:59PM
18 3:26:59PM
19 Subscribed and sworn to before me 3:26:59PM
20 this day of , 2009 3:26:59PM
21 3:26:59PM
22 3:26:59PM
23
24
25

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1 PROCEEDINGS
2 C E R T I F I C A T E
3
4 I, JUDI JOHNSON, RPR, CRR, CLR, a Notary Public in
5 and for the State of New York, do hereby certify:
6 THAT the witness whose testimony is hereinbefore
7 set forth, was duly sworn by me; and
8 THAT the within transcript is a true record
9 of the testimony given by said witness. I further
10 certify that I am not related, either by blood or
11 marriage, to any of the parties to this action; and
12 THAT I am in no way interested in the outcome of
13 this matter.
14 IN WITNESS WHEREOF, I have hereunto set
15 my hand this 26th day of June, 2009.
16
17
18
19
20
21
22
23
24
25

JUDI JOHNSON, RPR, CRR, CLR

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46 (Pages 482 to 485)

ERRATA SHEET

NAME OF CASE: CARTER V. OCEAN BEACH

DATE OF DEPOSITION: JUNE 16, 2009

NAME OF WITNESS: GEORGE HESSE

Reason codes:

1. To clarify the record.

2. To conform to the facts

3. To correct the transcription

errors.

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

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GEORGE HESSE

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORKEDWARD CARTER, FRANK FIORILLO,)
KEVIN LAMM, JOSEPH NOFI and)
THOMAS SNYDER,)

Plaintiffs,)

vs.) CV 07 1215

INCORPORATED VILLAGE OF OCEAN)
BEACH; MAYOR JOSEPH C. LOEFFLER)
JR., individually and in his)
Official capacity; former Mayor)
NATALIE K. ROGERS, individually)
and in her official capacity,)
OCEAN BEACH POLICE DEPARTMENT;)
ACTING DEPUTY POLICE CHIEF)
GEORGE B. HESSE, individually)
And in his official capacity;)
SUFFOLK COUNTY; SUFFOLK COUNTY)
POLICE DEPARTMENT, SUFFOLK)
COUNTY DEPARTMENT OF CIVIL)
SERVICE; and ALLISON SANCHEZ,)
Individually and in her)
Official capacity,)Defendants.)
-----)CONTINUED VIDEOTAPED DEPOSITION OF
GEORGE HESSE
Uniondale, New York
Thursday, August 6, 2009Reported by:
Philip Rizzuti
JOB NO. 24143

Page 489

1
2 APPEARANCES:3
4 THOMPSON WIGDOR & GILLY, LLP
5 Attorneys for Plaintiffs

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7 New York, New York 10003

8 BY: ANDREW S. GOODSTADT, ESQ.

9
10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.
11 Attorneys for George B. Hesse

12 530 Saw Mill Road

13 Elmsford, New York 10523

14 BY: KEVIN W. CONNOLLY, ESQ.

15
16 RIVKIN RADLER, LLP

17 Attorneys for Incorporated Village of

18 Ocean Beach, Joseph Loeffler, Natalie

19 Rogers and Ocean Beach Police Department

20 926 RexCorp Plaza

21 Uniondale, New York 11556

22 BY: KENNETH A. NOVIKOFF, ESQ.

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1
2
3
4 August 6, 2009
5 9:07 a.m.6
7 Continued videotaped deposition
8 of GEORGE HESSE, held at the offices
9 of Rivkin Radler, 926 Rexcorp Plaza,
10 Uniondale, New York, pursuant to
11 subpoena, before Philip Rizzuti, a
12 Notary Public of the State of New York
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1
2 APPEARANCES:3
4 RUDOLPH M. BAPTISTE, ESQ.

5 Assistant County Attorney

6 Suffolk County, State of New York

7 H. Lee Dennison Building, 6th Floor

8 100 Veterans Memorial Highway - P.O. Box 6100

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10
11 ALSO PRESENT:

12 FRANK FIORILLO

13 KEVIN LAMM

14 THOMAS SNYDER

15 JORDAN MUMMERT, Videographer
16
17
18
19
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21
22
23
24
25

Page 491

1 Hesse
2 THE VIDEOGRAPHER: This is the
3 start of the tape labeled number 1 of the
4 continuation of the videotape deposition
5 of George Hesse in the matter of Carter 09:07:56
6 and Fiorillo versus Incorporated Village
7 of Ocean Beach. The date is August 6,
8 2009, the time is approximately 9:09 a.m.
9 We are on the record.
10 G E O R G E H E S S E, called as a 09:08:12
11 witness, having been previously duly
12 sworn by a Notary Public, was examined
13 and testified as follows:
14 EXAMINATION BY
15 MR. GOODSTADT: 09:08:14
16 Q. Good morning, Mr. Hesse.
17 A. Good morning.
18 Q. Thank you for coming back. I want
19 to remind you that you are still under oath
20 from last time and that you are still sworn to 09:08:21
21 tell the truth. Do you understand that?
22 A. Yes.
23 Q. The last time we were here you had
24 testified briefly about drinking Rocket Fuels
25 in the police station, do you recall that? 09:08:32

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1 Hesse
2 A. Uh-hum.
3 Q. You testified that there were
4 times where people who worked in the bar, I
5 believe you identified Brian Easop and Paul 09:08:39
6 Conway as having delivered it to the police
7 station; is that correct?
8 MR. NOVIKOFF: Objection to the
9 form.
10 A. Yes. 09:08:48
11 Q. They worked at CJ's?
12 A. Yes.
13 Q. Did CJ's have a license to serve
14 alcohol outside their premises?
15 A. They had a license to sell outside 09:08:57
16 of the premise, yes, they had like an all
17 premise sale license.
18 Q. So they were entitled to sell
19 alcohol or deliver alcohol to the police
20 station without violating their license? 09:09:09
21 MR. NOVIKOFF: Objection to the
22 form.
23 A. I am not so sure about that, but
24 they were able to sell closed containers off
25 premises. 09:09:20

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1 Hesse
2 Q. Well did the Rocket Fuels come in
3 a closed container?
4 A. They did, yes.
5 Q. When you say you are not so sure 09:09:23
6 about that, what are you not sure about?
7 A. Well, like selling
8 over-the-counter, taking an open container
9 outside the bar, that is illegal to drink
10 outside of the -- in public, that is what I am 09:09:35
11 thinking along those lines. But they could
12 sell alcohol over-the-counter and by the case,
13 by the bottle for off premises consumption.
14 Q. How about a mixed drink?
15 MR. NOVIKOFF: Objection. 09:09:51
16 A. That is alcohol.
17 Q. They could sell that off premises?
18 A. I believe so.
19 Q. What is the basis of your belief?
20 A. I believe once I looked up their 09:09:58
21 license a while back, I don't recall what year
22 or when or why, but they do -- they had at
23 that time off premise sale license.
24 Q. When did you look up their
25 license? 09:10:10

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1 Hesse
2 MR. NOVIKOFF: Objection.
3 Q. Do you recall what year it was?
4 A. I don't remember.
5 Q. Last time -- strike that. 09:10:14
6 Just so I am clear you never wrote
7 CJ's or Mr. Easop or Mr. Conway a ticket for
8 delivering the alcohol, did you?
9 MR. NOVIKOFF: Objection.
10 MR. CONNOLLY: Objection. 09:10:32
11 (Record read.)
12 A. No.
13 Q. That is correct?
14 A. That is correct.
15 Q. The last time when we were here we 09:10:46
16 were discussing the Halloween incident, do you
17 recall that?
18 A. Yes.
19 Q. I believe that you testified, the
20 last thing you testified to was a statement, a 09:11:00
21 witness statement you had taken from Doug
22 Wyckoff, do you recall that?
23 MR. NOVIKOFF: Objection to the
24 form.
25 A. Yes. 09:11:08

Page 495

1 Hesse
2 **Q. Do you recall testifying that that**
3 **was on that next Tuesday morning?**
4 MR. NOVIKOFF: Objection to the
5 form. His testimony is what it is. 09:11:28
6 A. Yes, I believe it was the Tuesday
7 after the incident.
8 **Q. What do you recall doing in**
9 **connection with your investigation of the**
10 **Halloween incident after taking that witness 09:11:38**
11 **statement?**
12 MR. CONNOLLY: The next step?
13 MR. GOODSTADT: Yes. I believe he
14 walked us through his memory of the next
15 step. So I want to know what the next 09:11:49
16 step is.
17 A. I don't recall exactly what I did,
18 but I think I looked for more witnesses.
19 **Q. How did you go about doing that?**
20 A. I believe I asked Doug Wyckoff who 09:11:57
21 may have been there that he recalls.
22 **Q. Do you recall who if anybody he**
23 **told you may have been there?**
24 A. Off the top of my head, no.
25 **Q. Do you recall what you did after 09:12:10**

Page 496

1 Hesse
2 **asking him that question who may have been**
3 **there?**
4 A. I don't recall.
5 **Q. Did there come a point in time 09:12:16**
6 **where you asked Pat Cherry to assist in the**
7 **investigation?**
8 A. Yes.
9 **Q. When was that?**
10 A. I don't know exactly. 09:12:30
11 **Q. Was it before or after the Tuesday**
12 **morning in which you spoke with Mr. Wyckoff?**
13 A. I don't recall.
14 **Q. How did you go about asking him;**
15 **ask you see him, call him, E-mail him, some 09:12:43**
16 **other form?**
17 A. I believe I called him.
18 **Q. Why did you call him?**
19 A. Because I thought he was a good
20 candidate to help me out. 09:12:51
21 **Q. You made the decision to appoint**
22 **him to the investigation?**
23 A. I believe I called Chief Paradiso
24 and asked him if it would be all right.
25 **Q. When did you call Chief Paradiso 09:12:59**

Page 497

1 Hesse
2 **to ask if it would be all right?**
3 A. I don't recall.
4 **Q. What was Chief Paradiso's**
5 **response? 09:13:07**
6 A. I think he thought it was a good
7 idea.
8 **Q. Do you recall what he said?**
9 A. No.
10 **Q. Was Pat Cherry scheduled to have a 09:13:13**
11 **tour on the days or times that he helped with**
12 **the investigation or did he come in**
13 **specifically to assist with the investigation?**
14 MR. CONNOLLY: Objection.
15 MR. NOVIKOFF: Objection. 09:13:30
16 A. I don't recall.
17 **Q. Was he paid for his time taking**
18 **part in the investigation?**
19 A. Yes.
20 **Q. Cherry was not on duty Halloween 09:13:35**
21 **night; is that correct?**
22 A. Correct.
23 **Q. Did the board have to approve**
24 **Cherry's involvement in the investigation?**
25 MR. CONNOLLY: Objection to the 09:13:48

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1 Hesse
2 form.
3 A. No.
4 **Q. Did the board approve his**
5 **assistance in the investigation? 09:13:53**
6 MR. CONNOLLY: Objection to the
7 form.
8 A. I don't know.
9 **Q. Did you speak to anybody on the**
10 **board prior to asking Mr. Cherry to 09:14:01**
11 **investigate?**
12 A. No.
13 MR. NOVIKOFF: Objection to the
14 form.
15 **Q. At that point in time Mr. Cherry 09:14:08**
16 **had not passed all the civil service tests; is**
17 **that correct?**
18 A. Correct.
19 **Q. Did you alert anybody at civil**
20 **service with respect to Cherry's -- strike 09:14:31**
21 **that.**
22 **Did you alert anybody at civil**
23 **service about your decision to ask Mr. Cherry**
24 **to assist in the investigation?**
25 MR. NOVIKOFF: Objection to the 09:14:42

Page 499

1 Hesse
2 form.
3 MR. BAPTISTE: Objection.
4 A. No.
5 **Q. By that point in time, that 09:14:47**
6 **Tuesday morning, had you spoken with anybody**
7 **on the board of trustees of Ocean Beach about**
8 **the Halloween incident?**
9 A. Not that I recall.
10 **Q. Did you speak with the mayor prior 09:14:56**
11 **to that Tuesday morning about the Halloween**
12 **incident?**
13 MR. NOVIKOFF: Objection to the
14 form.
15 A. No. Not that I recall. 09:15:04
16 **Q. Who was the mayor at the time?**
17 A. Natalie Rogers.
18 **Q. Did you draft a plan for an**
19 **investigation prior to commencing your**
20 **investigation? 09:15:16**
21 A. No.
22 **Q. Did you take any notes in**
23 **preparation for your investigation?**
24 A. No. Not that I recall.
25 **Q. Do you recall what day -- strike 09:15:26**

Page 500

1 Hesse
2 that.
3 **Did Pat Cherry ever come to the**
4 **island in connection with his assistance in**
5 **the investigation? 09:15:38**
6 A. Yes.
7 **Q. Do you recall what day or days he**
8 **came to the island to assist in the**
9 **investigation?**
10 A. I don't recall, no. 09:15:44
11 **Q. Did you provide any documents to**
12 **Mr. Cherry before he commenced his role in the**
13 **investigation?**
14 A. I believe he reviewed all the
15 documents that we already had. 09:15:55
16 **Q. What documents were those?**
17 A. I believe it was, there were at
18 least three statements that were taken by the
19 officers that were on duty that night. There
20 was a field report that was drafted that night 09:16:09
21 by Officer Snyder. And I don't know if I had
22 any documents that I had drafted up. Any
23 statements that I took he may have read one or
24 two that maybe that I took at that time. And
25 I believe there was the letter from Budd 09:16:25

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1 Hesse
2 Jaeger, the fax, and some notes that were
3 faxed to me by his wife.
4 **Q. Any other documentation that you**
5 **provided to Mr. Cherry prior to him commencing 09:16:41**
6 **his role in the investigation?**
7 A. Not that I recall.
8 **Q. What did you explain to Mr. Cherry**
9 **about the assignment?**
10 A. I don't recall exactly how I 09:16:53
11 explained it to him.
12 **Q. Do you recall anything that you**
13 **explained to him?**
14 A. No.
15 **Q. Were you ever told that one of the 09:17:02**
16 **people who were involved in the altercation**
17 **with Mr. Bosetti had claimed that he was**
18 **afraid there was going to be a cover up, had**
19 **you ever heard that?**
20 MR. NOVIKOFF: Objection. 09:17:32
21 MR. CONNOLLY: At any time?
22 **Q. At any time?**
23 A. I don't specifically recall, no.
24 **Q. And did Cherry take any -- did Pat**
25 **Cherry take any witness statements as part of 09:17:47**

Page 502

1 Hesse
2 **his role in the investigation?**
3 A. Yes.
4 **Q. How many witness statements did he**
5 **take? 09:17:55**
6 A. Possibly three.
7 **Q. Do you know whose witness**
8 **statements Mr. Cherry took?**
9 A. He did Jeannie Jaeger, the victim.
10 He did Sean O'Rourke, and I believe he 09:18:11
11 interviewed Elyse Miller over the phone.
12 **Q. Where did the interview with**
13 **Jeannie Jaeger take place?**
14 A. At her house in Smithtown.
15 **Q. Do you know when that interview 09:18:35**
16 **took place?**
17 A. The statement is dated, so it
18 would be on the date that is on the statement
19 itself. I don't recall the actual date.
20 **Q. Did you attend the interview? 09:18:49**
21 A. Yes, I did.
22 **Q. Did you ask any questions during**
23 **the interview?**
24 A. I don't recall if I did.
25 **Q. Did Mr. Cherry ask any questions 09:18:59**

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1 Hesse
2 during the interview?
3 A. Specifically I don't really think
4 so.
5 **Q. Do you recall anything that you 09:19:11**
6 **said during that interview?**
7 A. No, I don't recall.
8 **Q. Do you recall anything that**
9 **Mr. Cherry said during that interview?**
10 A. Yes. In his own words I think he 09:19:18
11 asked her to say in her own words what
12 happened.
13 **Q. Did he say anything else during**
14 **that interview?**
15 A. Not that I recall specifically, 09:19:27
16 no.
17 **Q. So you don't recall if he had**
18 **asked her any questions?**
19 A. Not specifically, no.
20 **Q. What was Ed Paradiso's role in the 09:19:39**
21 **investigation?**
22 A. I don't think he had a role.
23 **Q. He was not involved at all?**
24 A. I think in the early, early stages
25 his involvement dealt with -- you know, to 09:19:55

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1 Hesse
2 tell you the truth I don't know. I mean he --
3 I know he spoke to Elyse Miller, he attempted
4 to talk to Gary Bosetti and Rich Bosetti.
5 Other than that he called me Sunday evening 09:20:13
6 and said investigate this.
7 **Q. What exactly did he say when he --**
8 **what exactly did he say when he called you**
9 **Sunday evening and told you that he wanted you**
10 **to investigate it? 09:20:29**
11 A. He basically, you know, he told me
12 what he was told I guess what had happened
13 that night and said that when I come in Monday
14 morning he is going to put some documents for
15 me to read and try to figure out what 09:20:44
16 happened.
17 **Q. What did he tell you about what**
18 **had happened that night?**
19 MR. CONNOLLY: Read back the
20 question. 09:21:02
21 (Record read.)
22 MR. CONNOLLY: Objection. But you
23 can answer.
24 A. He said something about Gary
25 Bosetti possibly went crazy in a bar and 09:21:09

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1 Hesse
2 started hitting people with a pool stick, and
3 that he had fired him, and that when I come in
4 Monday morning just figure out what happened.
5 **Q. Did he tell you where he learned 09:21:25**
6 **those facts from?**
7 MR. NOVIKOFF: Objection to the
8 form.
9 A. I don't remember specifically if
10 he did. 09:21:34
11 **Q. He told you that he fired Gary**
12 **Bosetti?**
13 A. He told me he fired Gary Bosetti.
14 **Q. Did he tell you why he fired Gary**
15 **Bosetti? 09:21:45**
16 A. I don't recall specifically why.
17 **Q. Did you have any role in the**
18 **decision to fire Gary Bosetti?**
19 A. No.
20 **Q. Did you know about it prior to it 09:21:50**
21 **happening?**
22 A. No.
23 **Q. When Mr. Cherry came in as part of**
24 **the investigation did you tell him that Gary**
25 **Bosetti had been fired? 09:22:05**

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1 Hesse
2 A. I don't recall specifically if I
3 told him when he came in.
4 **Q. How long did the investigation**
5 **take? 09:22:15**
6 MR. NOVIKOFF: Before they -- take
7 before what?
8 MR. CONNOLLY: Objection.
9 **Q. How long did your investigation**
10 **take? 09:22:25**
11 MR. NOVIKOFF: Objection.
12 A. Well, to get to the bottom of
13 things maybe five days, but from start to
14 finish to prosecution, it took a couple of
15 months. 09:22:42
16 **Q. What do you mean by to get to the**
17 **bottom of things?**
18 A. To kind of figure out what really
19 happened.
20 **Q. So you were able to reach a 09:22:49**
21 **conclusion as to what really happened within**
22 **five days?**
23 A. I believe it was about five days,
24 yes.
25 MR. CONNOLLY: Objection. 09:22:56

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1 Hesse
2 **Q. During those five days did you**
3 **speak with Kevin Lamm at all about his**
4 **involvement in the incident, or his**
5 **involvement in investigating that incident?** 09:23:12
6 MR. NOVIKOFF: Objection to the
7 form. Foundation.
8 A. Yes.
9 **Q. When did you speak with Lamm?**
10 A. Like I stated a few weeks ago, 09:23:20
11 when I got the phone call from Ed Paradiso
12 that he had fired Gary and that this incident
13 had happened, I called Kevin Lamm on his cell
14 phone and asked him what happened.
15 **Q. Did you speak to him at any time** 09:23:38
16 **after that call that you testified to already?**
17 A. Yes. I believe I spoke to him one
18 other time.
19 **Q. When was that?**
20 A. I don't know the exact date. 09:23:47
21 **Q. Was it in person or on the phone?**
22 A. On the phone I believe.
23 **Q. Tell me everything that you recall**
24 **that was discussed between you and Mr. Lamm**
25 **during that telephone conference?** 09:23:57

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1 Hesse
2 A. I don't specifically remember the
3 contents of the phone call, but I asked him to
4 put a 42 together, a statement regarding what
5 he believes took place. 09:24:07
6 **Q. Do you recall anything else that**
7 **was discussed during that call?**
8 A. Not specifically, no.
9 **Q. Do you know whether Cherry ever**
10 **spoke with Lamm as part of his role in the** 09:24:17
11 **investigation?**
12 A. I don't know.
13 **Q. How many times did you speak with**
14 **Mr. Fiorillo in connection with the**
15 **investigation?** 09:24:29
16 A. Over the course of a couple of
17 years?
18 **Q. No, within the five day period**
19 **until you reached the conclusion?**
20 A. Like I stated with Kevin Lamm, I 09:24:39
21 also called Frank that Sunday, that Sunday
22 evening, early evening. I asked him basically
23 the same thing that I asked Kevin, what had
24 happened, what he thought what had happened.
25 I don't specifically recall what 09:24:56

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1 Hesse
2 he said and I asked him to just put a
3 statement together, a 42, just to tell me what
4 happened.
5 **Q. Do you recall anything that was** 09:25:05
6 **discussed, any of the details of what was**
7 **discussed?**
8 A. No, I don't recall the details
9 exactly, no.
10 **Q. Did you speak with Mr. Fiorillo at** 09:25:13
11 **any other time during the five day period in**
12 **which it took you to investigate and reach a**
13 **conclusion?**
14 MR. CONNOLLY: Objection.
15 A. I believe one other time, yes. 09:25:26
16 **Q. When was that?**
17 A. I think I saw him in person at
18 the -- at the lighthouse parking lot where we
19 make our relief. I believe he handed me a
20 handwritten 42. 09:25:37
21 **Q. Do you recall anything that was**
22 **stated by either you or Mr. Fiorillo during**
23 **that -- during that incident in which you met**
24 **with him at the lighthouse?**
25 A. I don't recall specifically 09:25:56

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1 Hesse
2 anything.
3 **Q. How about generally, do you recall**
4 **anything generally that was discussed?**
5 A. No, not really. 09:26:01
6 **Q. How about Mr. Snyder, how many**
7 **times did you speak with him during the five**
8 **day period in which you investigated and**
9 **reached a conclusion?**
10 MR. CONNOLLY: Objection. 09:26:12
11 A. You know what, I don't think I
12 spoke to him at all that I can recall.
13 **Q. Did you try to speak to him?**
14 A. I believe I did, but I am not
15 sure, I can't speculate. 09:26:23
16 **Q. So you don't recall any efforts**
17 **that you made to speak to Mr. Snyder?**
18 A. I don't recall.
19 **Q. Do you know whether Mr. Cherry**
20 **spoke with Mr. Fiorillo at all?** 09:26:31
21 A. I don't know.
22 **Q. Do you know whether Mr. Cherry**
23 **spoke with Mr. Snyder at all?**
24 A. I don't know.
25 **Q. Do you think it would have been** 09:26:37

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1 Hesse
 2 **important for him to speak with either Mr.**
 3 **Fiorillo, Mr. Lamm or Mr. Snyder in connection**
 4 **with his role in the investigation?**
 5 MR. CONNOLLY: Objection. 09:26:50
 6 MR. NOVIKOFF: Objection.
 7 A. No.
 8 **Q. Why not?**
 9 A. We already had statements that
 10 were taken by these individuals and I asked 09:26:54
 11 them already to write me up a 42 what they
 12 thought happened, so there was no need to
 13 speak to them further.
 14 **Q. Did you speak to anybody from**
 15 **Ocean Beach Rescue who was on duty that night 09:27:07**
 16 **of the Halloween incident during your five day**
 17 **period of investigating?**
 18 MR. CONNOLLY: Objection.
 19 A. I don't recall.
 20 **Q. Did you speak with Joe Loeffler 09:27:15**
 21 **during that period; when I say Joe Loeffler I**
 22 **mean Joe Loeffler Jr.?**
 23 A. I don't recall specifically
 24 speaking to him.
 25 **Q. Did you speak with any of the 09:27:28**

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1 Hesse
 2 **three people who provided a witness statement**
 3 **to the on duty officers that night?**
 4 A. At any time?
 5 **Q. During the five day period in 09:27:39**
 6 **which you reached a conclusion as to what**
 7 **happened?**
 8 MR. CONNOLLY: Objection.
 9 A. No.
 10 **Q. Did you try to speak with any of 09:27:44**
 11 **the three of them?**
 12 A. No.
 13 **Q. Why not?**
 14 A. I had their statements.
 15 **Q. You didn't have any follow up 09:27:53**
 16 **questions from those statements?**
 17 A. No.
 18 **Q. So their statements were complete**
 19 **in your mind?**
 20 A. Yes. 09:28:01
 21 **Q. Just so I am clear you didn't deem**
 22 **it necessary to speak with the other side, the**
 23 **other individuals that were involved in the**
 24 **fight?**
 25 MR. NOVIKOFF: Objection. 09:28:14

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1 Hesse
 2 MR. CONNOLLY: Objection.
 3 A. They were already spoken to.
 4 **Q. You didn't think it was necessary**
 5 **or important to speak with them yourself? 09:28:20**
 6 MR. NOVIKOFF: Objection.
 7 MR. CONNOLLY: Objection.
 8 A. No.
 9 **Q. Do you believe that the on duty**
 10 **officers did a sufficient job in taking their 09:28:28**
 11 **statements?**
 12 MR. NOVIKOFF: Objection to the
 13 form.
 14 A. No.
 15 **Q. Why not? 09:28:34**
 16 A. They were somewhat incoherent.
 17 They were purely written.
 18 **Q. Did they provide any other**
 19 **statements other than the ones that they gave**
 20 **to the three on duty officers? 09:28:59**
 21 A. I believe they made some verbal
 22 comments the next day to Paradiso.
 23 **Q. How did you learn of those verbal**
 24 **comments?**
 25 A. I believe when I was called that 09:29:11

Page 514

1 Hesse
 2 night by Ed Paradiso, now thinking about it,
 3 he did tell me that they came back early that
 4 Sunday morning to file a complaint I guess
 5 against Officer Bosetti. 09:29:24
 6 **Q. Do you know whether they actually**
 7 **filed a complaint against Officer Bosetti?**
 8 A. I think it was all done verbally.
 9 **Q. What was the basis of that belief?**
 10 A. I was told that by Ed Paradiso. 09:29:37
 11 **Q. Do you recall what Ed Paradiso**
 12 **told you that they stated to him that Sunday**
 13 **morning?**
 14 A. I believe he told them that he had
 15 already fired Officer Bosetti and an 09:29:47
 16 investigation would be conducted.
 17 **Q. Did he tell you anything that they**
 18 **stated happened at the Halloween incident?**
 19 A. I don't recall.
 20 **Q. So I believe that you testified 09:29:59**
 21 **that you thought that their statements were**
 22 **complete, is that correct, is what you**
 23 **testified to?**
 24 MR. CONNOLLY: Objection.
 25 A. Yes. 09:30:08

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1 Hesse
2 **Q. You testified that the statements**
3 **that you read were incoherent and purely**
4 **written; correct?**
5 A. Yes. 09:30:15
6 **Q. So how do you reconcile those two?**
7 A. I don't understand the question.
8 **Q. What was incoherent about the**
9 **statements?**
10 A. They just were just belligerent 09:30:21
11 lies from an intox person?
12 **Q. And did you know that as soon as**
13 **you read those statements that they were**
14 **belligerent lies from an intox person?**
15 A. You could tell just by reading 09:30:38
16 them.
17 **Q. So you didn't think it was**
18 **important for you to further question them**
19 **after you believed what they had given as a**
20 **statement were lies?** 09:30:47
21 A. No.
22 **Q. Why not?**
23 A. Because a victim came forward,
24 told me what really had happened. And the
25 fact that the statements reflected the fact 09:30:59

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1 Hesse
2 that Gary Bosetti identified himself as a
3 police officer led me to believe that there
4 was no further questions I needed to ask these
5 individuals because they already knew what 09:31:12
6 they had done.
7 **Q. What does the fact that Gary**
8 **Bosetti identified himself as a police officer**
9 **lead you to that conclusion?**
10 A. One of the statements stated that 09:31:21
11 Gary Bosetti who identified himself as a
12 police officer at least ten times, I think
13 that is what the statement says.
14 **Q. What did that lead you to believe**
15 **that -- why did that lead you to believe that** 09:31:34
16 **you didn't need to speak with them any**
17 **further?**
18 A. Because flat out they admitted
19 what they had done.
20 **Q. So it is your conclusion that** 09:31:46
21 **their witness statements is an admission as to**
22 **what they had done; is that your testimony?**
23 MR. CONNOLLY: Objection.
24 MR. NOVIKOFF: Objection.
25 A. Yeah. 09:31:55

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1 Hesse
2 **Q. Did you run a background check on**
3 **any of the three of them?**
4 A. I may have, I don't recall
5 specifically. 09:32:07
6 **Q. Did you run a background check on**
7 **anybody other than for the three of them in**
8 **connection with the investigation of the**
9 **Halloween incident?**
10 MR. CONNOLLY: Objection. 09:32:15
11 A. I don't specifically recall.
12 **Q. Why would you run a background**
13 **check on the three of them?**
14 A. Because they were suspects.
15 **Q. When did they become suspects?** 09:32:23
16 A. Probably after I had spoken to
17 Budd Jaeger and Jeannie Jaeger.
18 **Q. So they became suspects based on**
19 **the statements of Budd Jaeger and Jeannie**
20 **Jaeger?** 09:32:43
21 A. Yes.
22 **Q. Was Gary Bosetti considered a**
23 **suspect in your mind?**
24 MR. NOVIKOFF: Objection as to
25 timeframe. 09:32:51

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1 Hesse
2 **Q. While you were investigating?**
3 MR. CONNOLLY: Same objection.
4 MR. NOVIKOFF: Objection.
5 A. In the early stages I was not 09:32:56
6 sure. It was possible, yes.
7 **Q. Did you attempt to speak with him**
8 **during the five days that you were**
9 **investigating?**
10 A. Speak with who? 09:33:06
11 **Q. Start with Gary Bosetti, did you**
12 **attempt to speak with Gary Bosetti during the**
13 **five days of your investigation?**
14 A. No.
15 MR. CONNOLLY: Objection. 09:33:15
16 **Q. Did you attempt to speak with Rich**
17 **Bosetti during the five days of your**
18 **investigation?**
19 A. No.
20 MR. CONNOLLY: Objection. 09:33:23
21 **Q. Did you speak with either of them**
22 **during those five days?**
23 MR. CONNOLLY: Objection.
24 A. No.
25 **Q. Why didn't you attempt to speak** 09:33:29

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1 Hesse
2 with them?
3 A. Because they too in the early
4 stages were suspect to possibly some
5 wrongdoing. 09:33:38
6 Q. Was it your policy not to speak to
7 anybody who was suspect of doing wrongdoing?
8 A. Well I wanted to find some
9 independent witnesses to find out what had
10 happened. 09:33:52
11 Q. You didn't answer the question.
12 The question was whether it was a policy at
13 any time not to speak to anybody who was a
14 suspect of doing wrongdoing?
15 MR. CONNOLLY: Objection. 09:34:01
16 MR. NOVIKOFF: Objection.
17 A. I found it not necessary to speak
18 to anybody at that time.
19 Q. Do you know what the three people
20 who gave witness statements that night were 09:34:10
21 drinking?
22 MR. CONNOLLY: You are talking
23 about the three --
24 Q. Schalik, Van Koot and Tesori. The
25 question was do you know what they were 09:34:29

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1 Hesse
2 drinking?
3 MR. CONNOLLY: Got it?
4 A. I don't specifically recall, no.
5 Q. Do you know how many drinks they 09:34:35
6 had?
7 A. No.
8 Q. What was the basis of your belief
9 that they were intoxicated?
10 A. I was told by the three officers 09:34:43
11 that were there.
12 Q. Which are the three officers told
13 you?
14 A. Fiorillo, Snyder and Lamm.
15 Q. The fact that they were 09:34:51
16 intoxicated, did that have any role in your
17 assessment of their credibility?
18 A. No.
19 Q. Why did you testify before -- you
20 testified before that they were belligerent 09:35:06
21 lies by intox; is that correct?
22 A. Uh-hum.
23 Q. What does the fact that they were
24 intoxicated have to do with anything about the
25 belligerent lies, if anything? 09:35:16

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1 Hesse
2 A. Poor judgment maybe. I don't
3 know.
4 Q. Was Jeannie Jaeger drinking that
5 night? 09:35:21
6 A. I don't recall.
7 Q. Do you know whether Cherry asked
8 her that as part of her interview?
9 A. I don't recall.
10 Q. Did you ask her that when you 09:35:28
11 spoke with her?
12 A. I don't believe I did.
13 Q. Do you think that that was a
14 question that should have been asked as part
15 of the investigation? 09:35:40
16 MR. NOVIKOFF: Objection.
17 A. Not specifically, no.
18 Q. Do you think that if she was drunk
19 it could have affected her judgment?
20 A. Being a victim, no. 09:35:49
21 Q. Could it have affected her ability
22 to recall facts?
23 MR. NOVIKOFF: Objection.
24 A. I don't know.
25 Q. You don't think if she is 09:36:00

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1 Hesse
2 intoxicated it may have affected her ability
3 to recall facts?
4 MR. NOVIKOFF: Objection.
5 A. It is speculating. It is 09:36:10
6 possible.
7 Q. Well as a police officer for a
8 long time, in your experience as a police
9 officer do you believe that intoxicated
10 people -- strike that. 09:36:26
11 Do you believe that intoxication
12 can affect a witness' ability to recall facts?
13 MR. CONNOLLY: Objection.
14 MR. NOVIKOFF: Objection.
15 A. I believe so, yes. 09:36:34
16 Q. But yet you still didn't ask her
17 if she was drinking?
18 MR. CONNOLLY: Objection.
19 A. I don't specifically recall.
20 MR. NOVIKOFF: Before you ask the 09:36:46
21 next question, just to make clear on the
22 record, an objection by one party is an
23 objection for all?
24 MR. GOODSTADT: Yes.
25 MR. NOVIKOFF: Right. 09:36:59

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1 Hesse
2 **Q. Are you aware of the injuries to**
3 **Brian Van Koot from that night?**
4 A. Partially, yes.
5 **Q. What do you mean by partially?** 09:37:05
6 A. I partially recall.
7 **Q. You partially recall now or you**
8 **were partially aware at the time; I am not**
9 **sure what you mean by partially?**
10 MR. CONNOLLY: Objection. Re-ask 09:37:19
11 the question.
12 **Q. At the time during those five days**
13 **were you aware of the injuries to Brian Van**
14 **Koot?**
15 MR. CONNOLLY: Objection. If you 09:37:32
16 understand the question.
17 A. I know why he went to the
18 hospital, but I don't believe there were any
19 injuries sustained from what I recall.
20 **Q. Did you see any pictures of Brian** 09:37:41
21 **Van Koot from that night?**
22 MR. CONNOLLY: At any juncture?
23 **Q. At any juncture?**
24 A. Yes.
25 **Q. When did you see those?** 09:37:52

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1 Hesse
2 A. I may have saw them the day I came
3 in. I don't specifically recall.
4 **Q. You testified that you don't**
5 **believe there were any injuries sustained by** 09:38:10
6 **Mr. Van Koot. What did you mean by that?**
7 A. He came in the next morning and I
8 believe he was okay.
9 MR. GOODSTADT: Would you mark
10 this as Hesse Exhibit 17, photocopy of 09:38:28
11 photographs.
12 (Hesse Exhibit 17, photocopy of
13 photographs, marked for
14 identification, as of this date.)
15 **Q. I placed in front of Mr. Hesse** 09:38:41
16 **what has now been marked as Hesse 17,**
17 **three-page exhibit bearing Bates numbers 3187**
18 **through 3188, 3189.**
19 Mr. Hesse, are these the pictures
20 that you saw the next morning? 09:39:14
21 MR. CONNOLLY: Objection.
22 A. Yes, I have seen these pictures,
23 yes.
24 **Q. Did you hear that at that time**
25 **that Mr. Van Koot had suffered an unaligned** 09:39:27

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1 Hesse
2 **trachea, or disaligned trachea as a result of**
3 **the Halloween incident?**
4 MR. NOVIKOFF: Objection to the
5 form. 09:39:44
6 A. Yes, I did hear that he had a
7 either deviated trachea or something, what the
8 EMT suspected, yes.
9 **Q. What do you mean by what the EMT**
10 **suspected?** 09:40:00
11 A. If he had a deviated trachea I
12 doubt he would have been out of the hospital
13 within a couple of hours. It was a
14 precautionary measure.
15 **Q. So do you know whether he actually** 09:40:10
16 **suffered that injury?**
17 A. I don't believe he did.
18 **Q. That was on the basis of your**
19 **understanding that he was out of the hospital**
20 **and came to the police station the next** 09:40:19
21 **morning?**
22 MR. NOVIKOFF: Objection to the
23 form.
24 A. Yes.
25 **Q. Did you ever check to see whether** 09:40:22

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1 Hesse
2 **he had actually suffered those injuries?**
3 MR. NOVIKOFF: Objection.
4 Foundation.
5 A. I don't recall. 09:40:30
6 **Q. Did you ever speak -- strike that.**
7 **How did you know that the EMT**
8 **suspected that?**
9 A. I think I read it on the PCR.
10 **Q. Did you ever speak with anyone who** 09:40:44
11 **was on EMT that night about those injuries?**
12 A. I don't recall if I did.
13 **Q. When was the first time that you**
14 **spoke with Joe Loeffler Jr. about the**
15 **Halloween incident?** 09:40:57
16 A. I don't recall when.
17 **Q. Do you recall how long after those**
18 **five days it was?**
19 A. I don't.
20 **Q. Joe Loeffler was part of the EMT** 09:41:04
21 **that night; is that correct?**
22 A. I believe he was, yes.
23 **Q. Did you ever hear the fact that he**
24 **stated that it was an assault second with a**
25 **dangerous instrument at the police station** 09:41:15

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1 Hesse
2 **that night?**
3 MR. CONNOLLY: Objection.
4 MR. NOVIKOFF: Objection.
5 A. I heard a rumor about that, yes. 09:41:19
6 **Q. Who did you hear the rumor from?**
7 A. I don't recall.
8 **Q. Did you ever speak with**
9 **Mr. Loeffler about that statement?**
10 A. I don't recall. 09:41:26
11 **Q. Did you ever speak with any of the**
12 **on duty officers that night about that**
13 **statement?**
14 MR. NOVIKOFF: Objection.
15 **Q. The three on duty officers that 09:41:36**
16 **were on duty that night --**
17 MR. CONNOLLY: The three officers
18 that went to the scene?
19 MR. NOVIKOFF: Objection to the
20 form. 09:41:45
21 **Q. Yes.**
22 A. I don't recall if I did
23 specifically.
24 **Q. Do you recall specifically**
25 **speaking to anybody about that statement being 09:41:51**

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1 Hesse
2 **made?**
3 MR. NOVIKOFF: Objection to the
4 form.
5 A. Specifically no. 09:41:54
6 **Q. Did you review the on duty**
7 **officers field report from that evening?**
8 A. Yes.
9 **Q. When did you review that for the**
10 **first time? 09:42:12**
11 A. I believe it was that Monday
12 morning.
13 **Q. And what was your reaction to**
14 **reading that report?**
15 A. I don't know if I really had a 09:42:22
16 reaction. I don't really recall what I had
17 thought.
18 **Q. Did you read that at the same time**
19 **that you read the witness statements that had**
20 **been taken the night of the Halloween 09:42:39**
21 **incident?**
22 A. Yes, I read them as a packet.
23 **Q. And the photos that have been**
24 **marked as Hesse Exhibit 17, they were part of**
25 **that packet? 09:42:52**

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1 Hesse
2 A. You know I don't recall if they
3 were or not. I do remember seeing them. I
4 don't remember when I first saw them though.
5 **Q. Were there any handwritten notes 09:43:01**
6 **or notes or documents prepared by Ed Paradiso**
7 **in that packet that you received?**
8 A. I don't recall if there was.
9 MR. GOODSTADT: Would you mark
10 this document as Hesse Exhibit 18, 09:43:17
11 incident report.
12 (Hesse Exhibit 18, incident
13 report, marked for identification, as
14 of this date.)
15 MR. GOODSTADT: Off the record for 09:43:40
16 one minute.
17 THE VIDEOGRAPHER: The time is
18 9:45, we are off the record.
19 (Recess taken.)
20 THE VIDEOGRAPHER: The time is 09:51:48
21 9:53, we are on the record.
22 **Q. Mr. Hesse, I want to go back to**
23 **your discussions with Jeannie Jaeger both on**
24 **the phone and when you went to her house with**
25 **Mr. Cherry. Did you ever ask her why she 09:52:06**

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1 Hesse
2 **didn't provide a statement that night to the**
3 **on duty police officers?**
4 A. Yes, she felt that because she saw
5 an ambulance in front of the police station, 09:52:21
6 that she felt that they were busy and she
7 didn't want to bother anybody.
8 **Q. Do you know where she went after**
9 **Hauser's that night?**
10 A. I don't recall where she went. 09:52:38
11 **Q. You never heard that she went to**
12 **CJ's after Hauser's?**
13 A. I don't recall. She might have.
14 **Q. Do you have to pass the police**
15 **station to get from Hauser's to CJ's? 09:52:49**
16 A. Yes.
17 **Q. Do you have to pass the police**
18 **station to get from CJ's back from their**
19 **residence?**
20 A. No. 09:52:57
21 **Q. How far is CJ's from the police**
22 **station?**
23 A. Maybe 50 steps.
24 **Q. 50 steps?**
25 A. Maybe. 09:53:03

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1 Hesse
2 **Q. Did you ask her whether the --**
3 **strike that.**
4 **You never spoke to her about**
5 **whether she was at CJ's that night after 09:53:08**
6 **Hauser's?**
7 MR. CONNOLLY: Objection.
8 A. I don't recall.
9 **Q. Did you ask her why she didn't**
10 **give a statement to the on duty officers at 09:53:16**
11 **Hauser's?**
12 MR. CONNOLLY: Objection.
13 MR. NOVIKOFF: Objection.
14 A. I don't recall.
15 **Q. Do you know whether -- strike 09:53:24**
16 **that.**
17 **Did she tell you that she didn't**
18 **want to bother anybody when she saw the**
19 **ambulance, did she tell you that during the**
20 **phone call or did she tell you that during the 09:53:35**
21 **visit to her house?**
22 A. I don't recall.
23 **Q. Do you know whether it was**
24 **incorporated into her witness statement?**
25 A. I don't recall if it was or not. 09:53:44

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1 Hesse
2 **Q. Do you think that is an important**
3 **fact that should be incorporated into a**
4 **witness statement?**
5 MR. NOVIKOFF: Objection. 09:53:55
6 A. May have.
7 **Q. It may have been important to**
8 **incorporate in a witness statement?**
9 A. May have.
10 **Q. What do you mean by that? 09:54:02**
11 A. We just told her to tell us what
12 happened. You know, it is funny, I don't
13 recall whether or not she told me within those
14 first five days or when we took the statement
15 or after. I must have seen her a hundred 09:54:18
16 times since then, so I don't recall.
17 **Q. So it is possible that you didn't**
18 **even ask her that during the five days?**
19 A. I don't recall.
20 **Q. The witness statements that were 09:54:28**
21 **prepared by, written by you and Mr. Cherry,**
22 **are those considered police property?**
23 MR. NOVIKOFF: Objection to the
24 form.
25 A. I would say yes. 09:54:42

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1 Hesse
2 **Q. Would they be confidential?**
3 A. To a point.
4 **Q. What do you mean by to a point?**
5 A. They are not for the general 09:54:49
6 public to look at.
7 **Q. Were they for other officers to**
8 **look at other than for you and Mr. Cherry?**
9 A. I don't think I would have hid
10 them from anybody. 09:55:02
11 **Q. Did you leave them out for anybody**
12 **to look at?**
13 A. Not specifically that I recall.
14 **Q. Did you ever show them to Gary**
15 **Bosetti? 09:55:11**
16 A. Yes.
17 **Q. When did you show them to Gary**
18 **Bosetti?**
19 A. I don't recall when.
20 **Q. Did you show them before or after 09:55:16**
21 **he provided his statement?**
22 A. It might have been after.
23 **Q. You don't recall showing them to**
24 **him before?**
25 A. No. 09:55:24

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1 Hesse
2 **Q. Would it have been improper for**
3 **him to review the other witness' statements**
4 **before giving his own witness statement?**
5 MR. CONNOLLY: Objection. 09:55:33
6 MR. NOVIKOFF: Objection.
7 A. I don't believe so.
8 **Q. So you think it would have been**
9 **proper for him to review everybody else's**
10 **witness statement prior to his statement being 09:55:39**
11 **taken?**
12 MR. NOVIKOFF: Objection.
13 A. You know at that point I don't
14 think it really would have mattered.
15 **Q. Why not? 09:55:50**
16 A. Because we felt that his actions
17 were correct.
18 **Q. So why did you ask him for a**
19 **statement?**
20 A. Because we actually wanted to see 09:55:57
21 what he had to say.
22 **Q. So again prior to actually seeing**
23 **what he had to say do you think it would have**
24 **been proper to show him all the other eye**
25 **witness statements that had been taken? 09:56:10**

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1 Hesse
 2 MR. CONNOLLY: Objection.
 3 A. Yeah, I don't recall whether or
 4 not he did. To tell you the truth I don't
 5 believe he did until afterwards. 09:56:19
 6 **Q. I am not asking whether he did or**
 7 **didn't, I am asking whether it would have been**
 8 **proper to have provided him with the other**
 9 **witness statements prior to finding out what**
 10 **he had to say? 09:56:28**
 11 MR. NOVIKOFF: Note my objection.
 12 MR. CONNOLLY: Objection.
 13 A. I don't think it would have been
 14 proper, but like I said I don't recall whether
 15 he did or not. I don't think he did. 09:56:40
 16 **Q. Would it have been proper for him**
 17 **to just make photocopies of the statements and**
 18 **take them home with him?**
 19 A. I don't --
 20 MR. NOVIKOFF: Objection. 09:56:53
 21 A. I don't believe he did.
 22 **Q. The question wasn't whether he did**
 23 **or didn't. The question was whether it would**
 24 **have been proper for him to do so?**
 25 MR. NOVIKOFF: Objection. 09:56:59

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1 Hesse
 2 A. If he asked permission I don't
 3 think it would have been improper.
 4 **Q. How about if he didn't ask**
 5 **permission? 09:57:05**
 6 A. I think that would be improper.
 7 **Q. Would it be grounds for**
 8 **termination?**
 9 A. Not specifically.
 10 **Q. Why not? 09:57:12**
 11 A. Why should he be; I don't know.
 12 **Q. Did you terminate David Gerbin**
 13 **(phonetic) for making photocopies of police**
 14 **documents?**
 15 A. He did more than that. 09:57:28
 16 **Q. Was that one of the reasons that**
 17 **you terminated him?**
 18 A. Yes.
 19 **Q. What were the other reasons that**
 20 **you terminated Gerbin? 09:57:35**
 21 A. He was in my desk going through my
 22 personal documents, not just a file that was
 23 left on a desk.
 24 **Q. Anything else that Gerbin did that**
 25 **you terminated him for? 09:57:46**

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1 Hesse
 2 A. He went through people's personnel
 3 files and took copies of that stuff too, I
 4 don't find that to be proper.
 5 **Q. Anything else that you fired 09:57:54**
 6 **Gerbin for?**
 7 A. I believe that was it.
 8 **Q. And that was -- you saw that on**
 9 **the videotape, Gerbin taking the stuff?**
 10 A. Yes. 09:58:17
 11 **Q. Did you keep a copy of that tape?**
 12 A. Yes.
 13 **Q. I believe you testified that**
 14 **Mr. Paradiso had spoken to Elyse Miller; is**
 15 **that correct? 09:58:30**
 16 MR. NOVIKOFF: Objection.
 17 A. Yes.
 18 **Q. How did you learn that he spoke**
 19 **with Elyse Miller?**
 20 A. I believe he had stated to me that 09:58:43
 21 he did and Elyse Miller had said that he came
 22 up to the house.
 23 **Q. What house is that?**
 24 A. I don't specifically remember.
 25 **Q. You don't know -- so she told you 09:58:49**

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1 Hesse
 2 **that she spoke with Ed Paradiso when he came**
 3 **up to the house?**
 4 A. Yes, where she was staying that
 5 night. 09:59:01
 6 **Q. Did she tell you which house it**
 7 **was?**
 8 A. If I recall correctly I think it
 9 was Michael Miller's house on Barberry Walk.
 10 **Q. Was Gary Bosetti staying there 09:59:11**
 11 **that night?**
 12 A. I don't recall.
 13 **Q. Did you ever ask him?**
 14 A. I don't recall if I did or not.
 15 **Q. Do you know whether Richard 09:59:18**
 16 **Bosetti was staying there that night?**
 17 A. I don't recall.
 18 **Q. Did you ever ask him?**
 19 A. Actually he made a statement that
 20 he stayed in the barracks. 09:59:29
 21 **Q. Do you know whether he was**
 22 **planning to stay at Michael Miller's house**
 23 **that evening?**
 24 A. I don't know.
 25 **Q. Did Ms. Miller provide -- strike 09:59:40**

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1 Hesse
2 that.
3 What else did Mr. Paradiso tell
4 you if anything about his discussion with
5 Ms. Miller? 09:59:49
6 A. I don't recall.
7 Q. Do you recall anything he told you
8 about his discussion with Ms. Miller other
9 than the fact that he spoke with her?
10 A. No, I don't recall. 09:59:58
11 Q. When was the first time that you
12 spoke with Elyse Miller about Halloween?
13 A. I don't remember the exact date,
14 but I believe it was over the telephone.
15 Q. Was it prior to or after your 10:00:10
16 discussion on that Monday or on that Tuesday
17 with Doug Wyckoff?
18 A. Well, I know Officer Cherry was
19 present when I spoke to her on the phone
20 because he was listening in. Actually I was 10:00:28
21 listening in to him. So it had to be a couple
22 of days after.
23 Q. So your discussion with Ms. Miller
24 was a couple of days after that Tuesday?
25 A. A day or two possibly, I don't 10:00:41

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1 Hesse
2 know.
3 Q. So your recollection it was either
4 Wednesday or Thursday?
5 A. It is possible, I don't know. 10:00:48
6 Q. Did you call her or did she call
7 you?
8 A. I don't remember.
9 Q. Tell me everything that you recall
10 that she said about what happened on Halloween 10:01:01
11 during that phone call?
12 MR. CONNOLLY: That phone call
13 being?
14 Q. The one that you testified to the
15 first time that you spoke with her? 10:01:09
16 A. I think we just basically asked
17 her what she observed, and she said she was
18 waiting on line for the bathroom. She
19 remembers being on line for quite a while,
20 possibly fifteen minutes or more. She was 10:01:20
21 standing behind who she now knows as Jeannie
22 Jaeger who was the first one on line. I guess
23 they were having a discussion about how long
24 they were waiting on line.
25 They kept knocking on the door. I 10:01:34

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1 Hesse
2 remember her saying that then a male and a
3 female came out of the bathroom. Next thing
4 you know a fight broke out and her and Jeannie
5 somehow got themselves into the bathroom to 10:01:51
6 stay away from the fight. That is basically
7 what I recall. I don't remember specifics.
8 Q. And who was -- who was on that
9 call?
10 A. I believe it was myself and John 10:02:04
11 Cherry, Pat Cherry.
12 Q. Did you ask -- strike that.
13 Do you know whether Ms. Miller was
14 drinking that evening?
15 A. I don't recall. 10:02:13
16 Q. Did you ask her?
17 A. I don't recall.
18 Q. Do you think that would have been
19 an important question to ask Ms. Miller?
20 MR. NOVIKOFF: Objection. 10:02:22
21 A. May have.
22 Q. What do you mean by may have?
23 A. It just may have. I think it was
24 irrelevant, but I don't recall her if we asked
25 her or not. 10:02:32

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1 Hesse
2 Q. Why would it be irrelevant about
3 whether an alleged eyewitness was drinking?
4 A. Because what she told us is what
5 we believed happened, so. And she was not 10:02:42
6 intoxicated when we were asking her those
7 questions.
8 Q. But if she was intoxicated at the
9 time it could have affected her judgment?
10 A. It is possible. 10:02:55
11 Q. Could it have affected her ability
12 to recall facts?
13 MR. NOVIKOFF: Objection.
14 A. It is possible.
15 Q. Could it have affected her 10:03:06
16 perception?
17 MR. NOVIKOFF: Objection.
18 A. Sure.
19 Q. Yet you still think it is
20 irrelevant? 10:03:15
21 A. Yes.
22 Q. Did she ever provide a witness
23 statement in writing?
24 A. Yes.
25 Q. Before we get to that, did you 10:03:22

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1 Hesse
2 **take any notes of that phone conversation?**
3 A. I don't believe we did.
4 **Q. How come?**
5 A. I think we just asked her to write 10:03:31
6 down her recollection of what happened and
7 send it to us.
8 **Q. But she had already given you a**
9 **verbal recollection; is that correct?**
10 A. Yes. 10:03:40
11 **Q. You didn't take any notes of what**
12 **she said verbally?**
13 MR. CONNOLLY: Objection.
14 A. I specifically didn't. I am
15 unaware if John Cherry did, or Patrick Cherry 10:03:47
16 he is known as.
17 **Q. Don't you think it would have been**
18 **important to write down what she said to you**
19 **in case her written statement contradicted it?**
20 A. No. 10:04:00
21 MR. GOODSTADT: Would you mark
22 this document as Hesse Exhibit 19,
23 handwritten statement dated November 1,
24 2004.
25 (Hesse Exhibit 19, handwritten 10:04:09

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1 Hesse
2 statement dated November 1, 2004,
3 marked for identification, as of this
4 date.)
5 **Q. I placed in front of Mr. Hesse 10:04:40**
6 **what has been marked as Hesse Exhibit 19. It**
7 **is a multiple page exhibit bearing Bates**
8 **numbers 3169 through 3175.**
9 Mr. Hesse, do you recall ever
10 reading or seeing the document that has been 10:05:02
11 marked as Hesse Exhibit 19?
12 A. Yes.
13 **Q. This is -- what is this document?**
14 A. This is Elyse Miller's
15 recollection of what happened that night. 10:05:16
16 **Q. Do you see on the first page dated**
17 **November 1, 2004, do you see that?**
18 A. Yes.
19 **Q. That was actually Monday; is that**
20 **correct? 10:05:24**
21 A. Yes.
22 **Q. Does this refresh your**
23 **recollection as to who when you spoke with**
24 **Ms. Miller?**
25 A. No. 10:05:30

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1 Hesse
2 **Q. Any reason to believe that it was**
3 **not provided to you on that Monday?**
4 A. Say that again.
5 **Q. Any reason to believe that this 10:05:44**
6 **was not provided to you on that Monday?**
7 A. No.
8 **Q. Was Pat Cherry assisting you by**
9 **that Monday?**
10 A. You know, I don't recall if he 10:05:52
11 came in Monday, Tuesday or Wednesday.
12 **Q. How did this statement come into**
13 **the station?**
14 A. I believe originally it may have
15 been faxed first and then we asked her to take 10:06:05
16 it to a notary, have it notarized and send us
17 the original.
18 **Q. It came to the fax machine in the**
19 **police station?**
20 MR. CONNOLLY: Objection. 10:06:24
21 A. I believe so.
22 **Q. Did you -- strike that.**
23 **Did she ever mention to you**
24 **anything about Gary Bosetti using a pool cue**
25 **to strike somebody? 10:06:40**

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1 Hesse
2 A. I don't recall if she did or not,
3 I would have to read this whole thing again.
4 **Q. I represent to you that there is**
5 **nothing in this statement that mentioned 10:06:49**
6 **anything about a pool cue.**
7 A. Okay.
8 **Q. Did you think that that would be**
9 **strange that an eyewitness who allegedly saw**
10 **the whole incident would leave out the fact 10:06:58**
11 **that Gary Bosetti used a pool cue to strike**
12 **somebody?**
13 MR. CONNOLLY: Objection.
14 MR. NOVIKOFF: Objection.
15 A. I never said that she saw the 10:07:04
16 whole incident, and we asked her in her best
17 recollection to give us a statement on what
18 she observed.
19 **Q. Out of all the witness statements**
20 **that you took do you recall any of the alleged 10:07:19**
21 **eyewitnesses mentioning that Gary Bosetti used**
22 **a pool cue to strike somebody?**
23 A. You know I don't think anybody
24 ever mentioned a pool cue.
25 **Q. Did you think that that was 10:07:32**

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1 Hesse
2 strange that nobody mentioned a pool cue?
3 MR. CONNOLLY: Objection.
4 MR. NOVIKOFF: Objection.
5 A. Yes. 10:07:36
6 Q. It is an important fact that was
7 omitted by all the eyewitness statements that
8 you had taken?
9 MR. NOVIKOFF: Objection.
10 A. Everything was done in their 10:07:45
11 words, I am not going to put words in their
12 mouth.
13 Q. Did you weigh -- strike that.
14 Did you use the fact that nobody
15 mentioned Gary Bosetti using a pool cue as 10:07:55
16 part of your credibility analysis?
17 A. Credibility of who?
18 MR. NOVIKOFF: Objection.
19 Q. Of the eyewitnesses?
20 MR. NOVIKOFF: Objection. 10:08:07
21 A. Their statements are their
22 statements.
23 Q. But you had to make a credibility
24 assessment as to whose statements were
25 accurate and whose were not; is that correct? 10:08:15

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1 Hesse
2 A. Their statements were this
3 statements.
4 Q. Well did you make a credibility
5 assessment as part of your investigation? 10:08:21
6 A. Not that I specifically recall.
7 Q. Well, you already testified that
8 you thought that the three people who were
9 involved with the fight that gave statements
10 that night had blatant lies in their 10:08:37
11 statements; correct?
12 MR. CONNOLLY: Objection.
13 A. That is what I felt.
14 Q. So that was making a credibility
15 determination about the three of them; 10:08:44
16 correct?
17 MR. NOVIKOFF: Objection.
18 A. In your opinion, yes.
19 Q. How about your opinion?
20 A. I thought they were lying. 10:08:52
21 Q. And you didn't believe their
22 statements; right?
23 A. Yes.
24 Q. You did not believe they were
25 credible; is that correct? 10:09:00

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1 Hesse
2 MR. CONNOLLY: Objection.
3 A. Correct.
4 Q. So I will go back to the same
5 question. So you did make a credibility 10:09:04
6 assessment as to the three people who gave
7 statements the night of the incident; correct?
8 A. If you say so, yes.
9 Q. I am not asking about what I say,
10 I am asking about you? 10:09:16
11 A. I believe that they were lies.
12 Q. Did you believe that any other
13 witnesses provided any lies in their
14 statements?
15 A. Not that I recall, no. 10:09:32
16 Q. So you view them as credible?
17 A. Yes.
18 Q. So I will go back to the question
19 again. You did make a credibility assessment
20 as part of your investigation; is that 10:09:44
21 correct?
22 MR. NOVIKOFF: Objection.
23 A. At that time I don't recall.
24 Q. And were you friends with Elyse
25 Miller at the time? 10:09:59

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1 Hesse
2 A. We were acquaintances.
3 Q. Was she ever a friend of yours on
4 Face Book?
5 A. Yes, at one time. 10:10:06
6 Q. What do you mean by at one time?
7 A. I deleted her as a friend.
8 Q. How come?
9 A. Because we are not friends.
10 Q. Were you friends during the period 10:10:16
11 that she was a friend on Face Book?
12 A. No.
13 Q. So why did you delete her --
14 strike that.
15 The reason that you deleted her is 10:10:25
16 because you are not friends?
17 A. Correct.
18 Q. So why didn't you delete her --
19 strike that?
20 How long was she a friend of yours 10:10:32
21 on Face Book?
22 A. I barely had been on Face Book for
23 a year. I just didn't find it necessary for
24 her to be a friend of mine on Face Book.
25 Q. Anything else happen between the 10:10:44

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1 Hesse
2 two of you that caused you to delete her as a
3 friend in Face Book?
4 MR. BAPTISTE: This is a surreal
5 line of questioning, but I am not 10:10:54
6 objecting.
7 A. No.
8 Q. Was she a friend of yours on your
9 My Space account?
10 A. You know I don't think so. 10:11:02
11 Q. Was she a friend of yours or an
12 acquaintance or whatever they call it on any
13 other social networking Internet site?
14 A. No.
15 Q. Did you ask her why she didn't 10:11:21
16 give a statement the night of the incident?
17 A. I don't recall.
18 Q. Did she tell you why she didn't
19 give a statement the night of the incident?
20 A. I don't recall. 10:11:30
21 Q. Did you ask her why she didn't go
22 to the police station that evening?
23 A. I don't recall if we did or not.
24 Q. Is it your testimony that you
25 don't know whether Gary Bosetti stayed at the 10:11:42

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1 Hesse
2 same house as Elyse Miller that night?
3 A. I don't know.
4 Q. If he did do you believe that that
5 would factor on her credibility at all? 10:11:53
6 A. No.
7 Q. Were they friends?
8 A. I believe they are friends.
9 Q. Did they have a sexual
10 relationship? 10:12:02
11 MR. NOVIKOFF: Objection.
12 A. I don't know.
13 MR. NOVIKOFF: If you are going to
14 ask him did he personally witness or did
15 Gary tell him, that is fine. 10:12:10
16 Q. Did you ever hear that they had a
17 sexual relationship?
18 A. No.
19 Q. Do you know whether -- well strike
20 that. 10:12:19
21 Did you ever take a witness
22 statement from Ian Levine about that evening?
23 A. Yes.
24 Q. You took his statement?
25 A. I think I did. 10:12:28

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1 Hesse
2 Q. Who else was there at the time of
3 the statement?
4 A. I don't recall.
5 Q. What day did you take his 10:12:36
6 statement?
7 A. I don't recall.
8 Q. Do you recall, do you know whether
9 Mr. Levine was drinking that evening?
10 A. I don't know. 10:12:49
11 Q. Did you ask him?
12 A. I don't recall.
13 Q. Is this the same Ian Levine that
14 you had worked for installing cable?
15 A. Yes. 10:12:58
16 Q. You testified I think the first
17 day of your deposition that he paid you in
18 cash; is that correct?
19 A. Correct.
20 Q. That you didn't pay taxes on that 10:13:09
21 money; right?
22 A. Right.
23 MR. GOODSTADT: Would you mark
24 this document as Hesse Exhibit 20,
25 handwritten statement dated November 2, 10:13:24

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1 Hesse
2 2004.
3 (Hesse Exhibit 20, handwritten
4 statement dated November 2, 2004,
5 marked for identification, as of this 10:13:25
6 date.)
7 Q. I place in front of Mr. Hesse what
8 is marked as Hesse Exhibit 20. It is a
9 two-page exhibit bearing Bates 3176 and 3177.
10 Mr. Hesse, do you recognize the 10:13:58
11 document marked as Hesse Exhibit 20?
12 A. Yes.
13 Q. What is this document?
14 A. This is a statement by Ian Levine
15 that was taken by John Cherry. 10:14:04
16 Q. Does this refresh your
17 recollection as to whether you took his
18 statement?
19 A. Yes.
20 Q. Were you with Mr. Cherry and 10:14:12
21 Mr. Levine at the time that this statement was
22 provided?
23 A. No.
24 Q. So your recollection before about
25 taking a witness statement from Mr. Levine is 10:14:19

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1 Hesse
 2 **incorrect, or did you take a separate**
 3 **statement?**
 4 A. You are correct, I was mistaken.
 5 **Q. Did you review this witness 10:14:30**
 6 **statement as part of your investigation?**
 7 A. Yes, at some point I did read it.
 8 **Q. And again you don't know if he was**
 9 **drinking that evening?**
 10 A. I don't know. 10:14:39
 11 **Q. Did you take a statement of one**
 12 **Mr. Sean O'Rourke as part of your**
 13 **investigation?**
 14 A. We did, but I did not do it
 15 personally. 10:14:57
 16 **Q. Who took that statement?**
 17 A. John Cherry, Pat Cherry.
 18 **Q. Is Mr. O'Rourke -- who is Sean**
 19 **O'Rourke?**
 20 A. Just a local resident. 10:15:14
 21 **Q. Does he work anywhere in the**
 22 **village?**
 23 MR. CONNOLLY: Now?
 24 **Q. At the time?**
 25 A. At the time, yes, he did a lot of 10:15:20

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1 Hesse
 2 different things.
 3 **Q. Was he working the night of the**
 4 **Halloween incident?**
 5 A. I believe he was the doorman. 10:15:26
 6 **Q. The doorman of where?**
 7 A. Hauser's.
 8 **Q. Did you review his witness**
 9 **statement as part of your investigation?**
 10 A. I believe I did. 10:15:36
 11 **Q. Was Mr. O'Rourke arrested for**
 12 **cocaine possession?**
 13 A. At some point, yes.
 14 **Q. Was he prosecuted?**
 15 A. Yes, he was. 10:15:45
 16 **Q. Was he found guilty?**
 17 A. Yes, he was.
 18 **Q. Was it just for possession or was**
 19 **there any other crimes?**
 20 A. It was intent to sell and 10:15:51
 21 possession.
 22 **Q. Intent to sell was based on the**
 23 **quantity or based on the fact that he had some**
 24 **paraphernalia for selling or what was the**
 25 **basis? 10:16:02**

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1 Hesse
 2 A. It was based on a lot of things.
 3 It was based on the packaging, the amount and
 4 the paraphernalia.
 5 **Q. When was that arrest? 10:16:11**
 6 A. Good question. It was in the
 7 month of January, I don't know, 2004, 2005.
 8 **Q. Was it before or after you took**
 9 **his statement?**
 10 A. I don't know. You know what, it 10:16:26
 11 was definitely before the statement.
 12 **Q. So at the time the statement was**
 13 **taken you had known that he was a convicted**
 14 **drug dealer; is that correct?**
 15 A. Yes. 10:16:40
 16 **Q. What was he actually convicted**
 17 **for?**
 18 MR. CONNOLLY: Objection to the
 19 extent that we know that he was arrested
 20 before. I don't know if it was 10:16:45
 21 established that he was convicted.
 22 **Q. Do you know when the conviction**
 23 **was?**
 24 A. I don't remember exactly what the
 25 date was. 10:16:53

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1 Hesse
 2 **Q. Was it before or after the**
 3 **Halloween statement that he gave to you?**
 4 A. The conviction was possibly before
 5 this also. 10:16:58
 6 **Q. What was he convicted for?**
 7 A. You know, I don't remember the
 8 exact plea deal, what he was convicted on. I
 9 don't remember exactly.
 10 **Q. But it was a drug related 10:17:09**
 11 **conviction?**
 12 A. Yes.
 13 **Q. So at the time he gave you this**
 14 **witness statement you knew he had been**
 15 **convicted of a drug related crime? 10:17:17**
 16 A. Yes.
 17 **Q. Did you -- did his statement play**
 18 **any role in your conclusion that you reached**
 19 **within those five days?**
 20 A. Did it play a role; to what 10:17:32
 21 extent; I don't recall.
 22 **Q. Well did you believe his statement**
 23 **to be credible?**
 24 A. Sure.
 25 **Q. Do you know whether Mr. O'Rourke 10:17:44**

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1 Hesse
2 was drinking that night?
3 A. I don't recall.
4 Q. Did you ask him?
5 A. I don't recall. 10:17:49
6 Q. Do you know whether Mr. O'Rourke
7 was doing drugs that night?
8 A. I don't know, I didn't interview
9 him, so I don't know.
10 Q. Do you know whether Mr. Cherry 10:17:56
11 asked him whether he was doing drugs that
12 night?
13 A. I don't know.
14 Q. Do you know whether Mr. Cherry
15 asked him if he was drinking that night? 10:18:02
16 A. I don't know.
17 Q. Do you think it would have been
18 important to find out whether or not a
19 eyewitness was doing drugs on the night of the
20 alleged incident? 10:18:10
21 MR. NOVIKOFF: Objection.
22 A. Sure, I guess we could have asked.
23 Q. Particularly after he has already
24 been convicted of a drug crime?
25 MR. NOVIKOFF: Objection. 10:18:19

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1 Hesse
2 A. I didn't interview him.
3 Q. I am asking you whether you think
4 it was important to ask that question?
5 MR. NOVIKOFF: Objection. 10:18:25
6 A. It may have been.
7 Q. You think it would have been
8 important to ask him whether he was drinking
9 that night?
10 MR. NOVIKOFF: Objection. 10:18:30
11 A. It could have been, yes.
12 Q. I believe you testified before
13 that you got a statement from Gary Bosetti; is
14 that correct?
15 A. At some point, yes. 10:18:39
16 Q. When was that?
17 A. I don't remember the exact date.
18 Q. Was it before or after you had
19 gotten the statement from Sean O'Rourke?
20 A. I believe it was after. 10:18:50
21 Q. At some point was Gary rehired?
22 A. Yes.
23 Q. Who rehired him?
24 A. Ed Paradiso.
25 Q. Do you recall when that took 10:18:59

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1 Hesse
2 place?
3 A. Specifically no.
4 Q. Were you there when it happened?
5 A. Yes. 10:19:09
6 Q. Where was it?
7 A. Police station.
8 Q. Who was there?
9 A. John Cherry was there, but he was
10 sitting at the front desk, myself, Gary 10:19:16
11 Bosetti, Richie Bosetti and Ed Paradiso was in
12 the squad room.
13 Q. I believe you testified that you
14 got his statement because you wanted to hear
15 what he had to say; is that correct? 10:19:34
16 A. Yes.
17 Q. How come you did -- strike that.
18 Do you recall taking it during the
19 first five days in which you reached your
20 conclusions? 10:19:45
21 A. I don't recall whether I did or
22 not.
23 MR. GOODSTADT: Would you mark
24 this document as Hesse Exhibit 21,
25 internal correspondence, November 12, 10:20:09

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1 Hesse
2 2004.
3 (Hesse Exhibit 21, internal
4 correspondence, November 12, 2004,
5 marked for identification, as of this 10:20:10
6 date.)
7 Q. I placed in front of Mr. Hesse
8 what is marked as Exhibit 21, Bates number
9 3158. Mr. Hesse, do you recognize this
10 document? 10:20:45
11 A. Yes.
12 Q. What is this document?
13 A. Typed statement given by Gary
14 Bosetti.
15 Q. You see it is dated November 12, 10:20:51
16 2004, do you see that?
17 A. Yes.
18 Q. Do you know whether he provided
19 a -- strike that.
20 How did you receive this 10:21:01
21 statement?
22 A. I believe he did this in the
23 police station. I think we had him come to
24 the station house.
25 Q. He typed it up in the police 10:21:11

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1 Hesse
2 station?
3 A. I don't recall if I typed it as he
4 said it or if he typed it himself.
5 **Q. But to your recollection there was 10:21:19**
6 **no handwritten version of this from you or him**
7 **or somebody else?**
8 A. No.
9 **Q. You see it is dated November 12,**
10 **2004? 10:21:31**
11 A. Yes.
12 **Q. That is now just about two weeks**
13 **after the incident?**
14 A. Yes.
15 **Q. Why did you wait about two weeks 10:21:36**
16 **to get his statement?**
17 A. I don't know why.
18 **Q. Did you ask him why he didn't give**
19 **a statement the night of the incident?**
20 A. I think he was -- I believe I did 10:21:47
21 ask him why he didn't approach one of the
22 three officers and, you know, I remember him
23 saying that he was dazed from the fight
24 itself. That Richie attempted to -- Rich
25 Bosetti, his brother, attempted to talk to the 10:22:03

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1 Hesse
2 three and none of them wanted to talk to him.
3 **Q. Did you ask him why he didn't come**
4 **to the police station the next day to give a**
5 **statement? 10:22:15**
6 A. Well, in his opinion I think he
7 felt he was being railroaded --
8 MR. CONNOLLY: That is not the
9 question.
10 A. So he didn't want to talk to 10:22:25
11 anybody, he left.
12 **Q. He left. What do you mean by he**
13 **left?**
14 A. I think he left the beach.
15 **Q. As a retired 20 year veteran of 10:22:34**
16 **the New York City Police Department who was**
17 **involved in an altercation, was it appropriate**
18 **that he left the beach without giving a**
19 **statement?**
20 MR. CONNOLLY: Objection. 10:22:48
21 MR. NOVIKOFF: Objection.
22 A. He felt it was, yes.
23 **Q. I am not asking what he felt. I**
24 **am asking you whether you felt that a 20 year**
25 **New York City veteran police officer at the 10:22:55**

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1 Hesse
2 time a current police officer in the Village
3 of Ocean Beach, do you think it was
4 appropriate for him to leave the island
5 without giving a statement? 10:23:08
6 MR. NOVIKOFF: Objection.
7 A. I felt it was inappropriate, and I
8 felt he should have come to either myself or
9 the chief.
10 **Q. Did you ever write him up for not 10:23:13**
11 **doing?**
12 MR. NOVIKOFF: Objection.
13 A. No.
14 **Q. Did you ever discipline him for**
15 **not doing that? 10:23:20**
16 MR. NOVIKOFF: Objection.
17 A. I did talk to him about it.
18 **Q. When did you speak to him about**
19 **it?**
20 A. I don't remember exactly. 10:23:25
21 **Q. Was it before or after November**
22 **12, 2004?**
23 A. I don't remember exactly, no.
24 **Q. Did you memorialize the fact that**
25 **you spoke to him about that? 10:23:37**

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1 Hesse
2 A. No.
3 **Q. What was your reaction when you**
4 **heard that he had left the island without**
5 **giving a statement? 10:23:47**
6 A. I don't know if I had a reaction.
7 I don't recall.
8 **Q. Do you know whether he was**
9 **drinking that night?**
10 A. I don't know. 10:23:58
11 **Q. Did you ever ask him?**
12 A. I may have, I don't know.
13 **Q. And he took police action that**
14 **night?**
15 MR. NOVIKOFF: Objection. 10:24:07
16 MR. CONNOLLY: Objection.
17 **Q. Do you believe he took police**
18 **action that night?**
19 A. In my opinion, yes.
20 **Q. Was he the first officer at the 10:24:11**
21 **scene?**
22 MR. NOVIKOFF: Objection.
23 A. He was already there.
24 **Q. So how come he didn't make an**
25 **arrest that night; did you ever ask him? 10:24:23**

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1 Hesse
2 A. I may have asked him, I don't
3 recall specifically.
4 Q. Do you recall what his response
5 was? 10:24:31
6 A. Not specifically, no.
7 Q. Did it surprise you that he didn't
8 make an arrest after what you now believe to
9 be the truth?
10 MR. NOVIKOFF: Objection. 10:24:45
11 A. Was I surprised; I wouldn't say I
12 was surprised.
13 Q. Did you ever ask him why he left
14 the ocean without giving a statement?
15 MR. BAPTISTE: Why he left the 10:25:07
16 bar or why he left --
17 Q. The beach without giving a
18 statement?
19 A. I don't specifically remember.
20 Q. Did you ever ask him why he left 10:25:13
21 the bar without giving a statement?
22 MR. NOVIKOFF: Objection. Asked
23 and answered.
24 A. I believe he was inside the bar
25 and Rich Bosetti went out to talk to the three 10:25:23

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1 Hesse
2 police officers, and they said they will take
3 care of it, they will do whatever,
4 specifically I don't recall.
5 Frank -- I believe it was Frank 10:25:33
6 Fiorillo had said to Rich specifically we are
7 handling it. So Richie went back into the
8 bar. So I don't know why they specifically
9 didn't talk to them.
10 Q. And by November 12th you had 10:25:44
11 already reached a conclusion as to what
12 happened; correct?
13 A. Yes.
14 Q. By that point in time had any
15 other witness mentioned to you that Gary 10:25:56
16 Bosetti used a pool cue?
17 MR. CONNOLLY: Objection.
18 MR. NOVIKOFF: Objection to the
19 form.
20 A. I don't believe any witness came 10:26:03
21 forward and said anything about a pool cue.
22 Q. Did you ever take a statement from
23 Richard Bosetti?
24 A. Yes.
25 Q. When did you take that statement? 10:26:14

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1 Hesse
2 A. I don't specifically remember.
3 Q. Was it before or after Gary's?
4 A. I don't know.
5 Q. Did you ask him to provide a 10:26:23
6 statement or did he come forward voluntarily
7 to do it?
8 A. I believe I asked him to write
9 something up.
10 Q. When did you ask him that? 10:26:29
11 A. I don't specifically remember.
12 Q. Do you recall approximately when
13 it was?
14 A. No. I don't.
15 Q. Do you recall what month it was? 10:26:36
16 A. It was probably in November.
17 Q. Why would you think that?
18 A. Well, the incident took place on
19 the 31st, preceding month is November.
20 MR. GOODSTADT: Would you mark 10:27:00
21 this document, internal correspondence,
22 December 10, 2004, as Hesse Exhibit 22,
23 (Hesse Exhibit 22, internal
24 correspondence, December 10, 2004,
25 marked for identification, as of this 10:27:02

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1 Hesse
2 date.)
3 Q. I placed in front of Mr. Hesse
4 what has been marked as Hesse Exhibit 22, it
5 is a multiple page exhibit bearing Bates 10:27:38
6 numbers 3200 through 3204.
7 Do you recognize the exhibit that
8 has been marked as Hesse Exhibit 22?
9 A. Yes.
10 Q. What is this? 10:27:54
11 A. Statement that I took from Rich
12 Bosetti.
13 Q. And the last three pages are, is
14 that your handwriting?
15 A. Yes, that is my handwriting. 10:28:03
16 Q. How come Rich Bosetti didn't sign
17 the statement, the last three page written
18 statement?
19 A. I don't recall.
20 Q. Do you usually have a witness sign 10:28:11
21 a statement that they give?
22 A. Always, yes.
23 Q. Do you know whether he actually
24 signed the handwritten statement at any point?
25 A. According to this no, I don't 10:28:22

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1 Hesse
2 recall.
3 **Q. Who typed the first two pages?**
4 A. I think I went back and I typed it
5 up after I wrote it. 10:28:32
6 **Q. Why would you type it up?**
7 A. Just so it was easier to read, no
8 other reason.
9 **Q. You see the date, December 10,**
10 **2004?** 10:28:42
11 A. Yes.
12 **Q. Does that now refresh your**
13 **recollection as to when you took Rich**
14 **Bosetti's statement?**
15 A. Not specifically, no. 10:28:46
16 **Q. Any reason to believe it was not**
17 **December 10, 2004?**
18 A. No.
19 **Q. Why would you wait six weeks to**
20 **take a statement?** 10:28:55
21 MR. NOVIKOFF: Almost six weeks.
22 **Q. Approximately six weeks.**
23 MR. CONNOLLY: Objection to the
24 form. You can answer.
25 A. I don't specifically recall why. 10:29:03

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1 Hesse
2 **Q. Do you think that six week time**
3 **lapse could affect his ability to recall the**
4 **events that night?**
5 A. It could have. 10:29:14
6 **Q. Did you ask him whether he was**
7 **drinking that night?**
8 A. Not specifically, I don't
9 remember.
10 **Q. Do you know whether he was** 10:29:20
11 **drinking that night?**
12 A. I don't know.
13 **Q. Do you think it would have been**
14 **important to ask him?**
15 MR. CONNOLLY: Objection. 10:29:26
16 A. Sure.
17 **Q. Did you ask Rich Bosetti if he**
18 **tried to get any statements from any**
19 **eyewitnesses that night?**
20 A. I don't recall if I did. 10:29:48
21 **Q. Do you know how Rich Bosetti got**
22 **off the island that next morning?**
23 A. I don't recall.
24 **Q. Do you know how Gary Bosetti got**
25 **off the island on the morning of the 31st?** 10:30:02

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1 Hesse
2 A. I don't recall.
3 **Q. I believe you testified before**
4 **about asking the on duty officers that evening**
5 **to put together 42's; is that correct?** 10:30:17
6 MR. CONNOLLY: Objection. Do you
7 mean the officers who were on the scene?
8 **Q. Who were on duty that night?**
9 MR. CONNOLLY: We have not
10 established there were any other officers 10:30:28
11 on duty. I know you are making reference
12 to the three officers that went to the
13 scene.
14 MR. GOODSTADT: I will rephrase.
15 MR. NOVIKOFF: I believe this 10:30:35
16 witness testified today that he asked
17 Mr. Lamm and Mr. Fiorillo for 42's. I
18 don't believe he made any reference to a
19 42 for Mr. Snyder.
20 **Q. So did you ask Mr. Fiorillo to** 10:30:48
21 **provide a 42?**
22 A. Yes.
23 **Q. A 42 is what?**
24 A. Just a memo.
25 **Q. Did you ask Lamm to provide a 42?** 10:30:54

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1 Hesse
2 A. Yes.
3 **Q. Did you ask Snyder to provide a**
4 **42?**
5 A. At some point I did. 10:31:01
6 **Q. Do you recall when you asked**
7 **Snyder to provide a 42?**
8 A. I don't recall.
9 **Q. Is it possible that it was October**
10 **31st that you asked him to provide a 42?** 10:31:09
11 MR. NOVIKOFF: Objection.
12 A. I don't think so.
13 **Q. When was the first time that you**
14 **recall speaking to Snyder about the Halloween**
15 **incident?** 10:31:25
16 A. I don't recall.
17 **Q. Do you recall approximately how**
18 **many days after the event?**
19 A. No, I don't.
20 **Q. Do you recall when Snyder provided** 10:31:25
21 **his 42?**
22 A. I don't.
23 **Q. Do you recall how Snyder provided**
24 **his 42?**
25 A. I think he put it in writing. 10:31:37

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1 Hesse
2 **Q. Do you recall how you received it?**
3 A. I don't know. I don't know if it
4 was by E-mail or if he faxed it.
5 **Q. Do you recall whether -- was it 10:31:47**
6 **handwritten or typed?**
7 A. My best recollection is it was
8 typed.
9 **Q. Did you ever receive the 42 from**
10 **Lamm? 10:31:58**
11 A. Yes.
12 **Q. Do you recall when that was**
13 **received?**
14 A. I don't recall, no.
15 **Q. Did you ever receive a 42 from Mr. 10:32:02**
16 **Fiorillo?**
17 A. Yes.
18 **Q. Do you recall how that was**
19 **received by you?**
20 A. Like I stated earlier I believe he 10:32:10
21 handed me a handwritten 42.
22 **Q. Why did you ask them for 42's?**
23 A. I just wanted to see what their
24 recollection of the night was.
25 **Q. I believe you testified that prior 10:32:31**

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1 Hesse
2 **to asking for the 42 you discussed the**
3 **incident with Mr. Fiorillo and Mr. Lamm on the**
4 **telephone; is that correct?**
5 A. Yes. 10:32:43
6 **Q. Do you recall whether you spoke**
7 **with Mr. Snyder at all about Halloween before**
8 **getting his 42?**
9 A. I must have if I asked for his 42.
10 I don't specifically -- specifically I don't 10:32:57
11 recall.
12 **Q. Did he tell you that Richard**
13 **Bosetti refused to answer questions that**
14 **evening?**
15 A. I don't recall. 10:33:06
16 **Q. Did he tell you that the people**
17 **who came to the station that night, Schalik,**
18 **Tesori or Van Koot claimed that they thought**
19 **the incident was going to be covered up?**
20 MR. NOVIKOFF: Objection. 10:33:28
21 MR. CONNOLLY: Objection as to
22 timeframe.
23 **Q. At any point in time?**
24 MR. NOVIKOFF: My objection went
25 beyond that. 10:33:34

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1 Hesse
2 A. I don't recall specifically, but
3 that came up a couple of times. I don't know
4 when specifically though.
5 **Q. Who brought it up? 10:33:39**
6 A. I don't remember specifically.
7 **Q. Do you remember when you learned**
8 **of that allegation?**
9 A. No, I think it was a rumor that
10 was just circulating. 10:33:49
11 **Q. Did you learn that rumor during**
12 **the five days in which you reached your**
13 **conclusion?**
14 MR. CONNOLLY: Objection.
15 A. I don't recall. 10:33:57
16 MR. GOODSTADT: Would you mark
17 this document as Hesse Exhibit 23,
18 typewritten document dated 11/5/04 to
19 George Hesse.
20 (Hesse Exhibit 23, typewritten 10:34:24
21 document dated 11/5/04 to George Hesse,
22 marked for identification, as of this
23 date.)
24 **Q. I place in front of Mr. Hesse what**
25 **has been marked as Hesse Exhibit 23, a 10:35:01**

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1 Hesse
2 **three-page exhibit bearing Bates numbers**
3 **3196, 3197 and 3198.**
4 **Mr. Hesse, do you recognize the**
5 **document marked as Hesse Exhibit 23? 10:35:13**
6 A. Yes.
7 **Q. What is this document?**
8 A. This is the statement or 42 from
9 Thomas Snyder to me.
10 **Q. Dated 11/5/04? 10:35:26**
11 A. Yes.
12 **Q. Do you recall if you actually**
13 **received it on 11/5/04?**
14 A. The fax is showing it is
15 11/6/2004. 10:35:42
16 **Q. Do you recall if that is the date**
17 **that you received it?**
18 A. I don't recall, no.
19 **Q. Does this -- did you speak with**
20 **Snyder before he provided the 42? 10:35:50**
21 A. I don't recall specifically. I
22 believe I did though.
23 **Q. You had asked him to provide it,**
24 **right?**
25 A. Yes. I already stated that. 10:36:01

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1 Hesse
 2 MR. NOVIKOFF: Objection. Without
 3 telling him what to testify to, I would
 4 presume that he has testified that he
 5 asked for a 42 of Snyder, that he had to 10:36:08
 6 have at least had a conversation as to
 7 that.
 8 MR. CONNOLLY: I believe he
 9 actually testified to that.
 10 MR. GOODSTADT: I believe he also 10:36:16
 11 testified that he didn't speak to Snyder
 12 during the five days. I wanted to
 13 refresh his recollection. I want to get
 14 a time line.
 15 **Q. Does this refresh your 10:36:24**
 16 **recollection as to whether you spoke with Mr.**
 17 **Snyder during the five day interval in which**
 18 **you reached your conclusions?**
 19 A. No.
 20 MR. NOVIKOFF: Also let the record 10:36:35
 21 reflect that I think his testimony wasn't
 22 five days, I think he believes it was
 23 around five days.
 24 **Q. Does this refresh your**
 25 **recollection -- strike that. 10:36:47**

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1 Hesse
 2 **Sitting here now do you recall**
 3 **anything that was discussed between you and**
 4 **Mr. Snyder other than for asking him to**
 5 **provide a 42? 10:36:57**
 6 A. I don't recall.
 7 **Q. Do you recall telling him that Joe**
 8 **Loeffler wanted you to turn around the**
 9 **investigation?**
 10 A. No. 10:37:05
 11 **Q. Do you recall telling Tom Snyder**
 12 **that you were going to wrap up the**
 13 **investigation on the day that he faxed in his**
 14 **42?**
 15 MR. NOVIKOFF: Objection. 10:37:17
 16 A. I don't recall.
 17 **Q. What was your reaction when you**
 18 **received Mr. Snyder's statement?**
 19 MR. CONNOLLY: Objection.
 20 MR. NOVIKOFF: If any. 10:37:34
 21 **Q. If any?**
 22 A. I don't recall having any
 23 reaction.
 24 **Q. Did you think his statements was**
 25 **accurate? 10:37:43**

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1 Hesse
 2 MR. NOVIKOFF: Objection.
 3 MR. CONNOLLY: Objection.
 4 A. I had no reason to believe it was
 5 not. 10:37:49
 6 **Q. Did you believe that Mr. Snyder**
 7 **was not telling the truth in his statement?**
 8 MR. CONNOLLY: Objection.
 9 MR. NOVIKOFF: Objection.
 10 A. No. 10:37:59
 11 **Q. Did you believe that Mr. Snyder**
 12 **was corrupt based on this statement?**
 13 A. No.
 14 **Q. Did you speak to him at all about**
 15 **his statement? 10:38:07**
 16 A. I don't specifically recall.
 17 **Q. Do you recall telling Mr. Snyder**
 18 **that there were discrepancies between what he**
 19 **and Richard Bosetti had stated?**
 20 A. I don't specifically recall. 10:38:16
 21 **Q. So you don't recall one way or the**
 22 **other?**
 23 A. No.
 24 MR. NOVIKOFF: When did Bosetti
 25 provide this statement; object to that 10:38:34

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1 Hesse
 2 last question because I think Bosetti
 3 provided it after this. Foundation
 4 objection.
 5 **Q. Do you ever recall telling Mr. 10:38:37**
 6 **Snyder that there were discrepancies between**
 7 **what his statement said and what Mr. Bosetti**
 8 **claimed?**
 9 MR. CONNOLLY: At any time?
 10 **Q. Yes. 10:38:47**
 11 A. I specifically don't recall.
 12 **Q. You don't recall one way or the**
 13 **other?**
 14 A. No.
 15 **Q. Do you recall speaking to Ed 10:38:51**
 16 **Carter about Tommy Snyder's statement?**
 17 A. No.
 18 **Q. You don't recall one way or the**
 19 **other?**
 20 A. No. 10:38:59
 21 **Q. You don't recall telling**
 22 **Mr. Carter that Tommy Snyder needed to protect**
 23 **the Bosetti's rather than the victims?**
 24 A. No.
 25 **Q. You don't recall telling Mr. Frank 10:39:11**

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1 Hesse
2 Fiorillo that Tommy Snyder needed to protect
3 the Bosetti's rather than the victims?
4 MR. NOVIKOFF: Objection.
5 A. No. 10:39:27
6 Q. Isn't it true that you told
7 Mr. Carter that Snyder's report made you sick?
8 A. No.
9 Q. Isn't it true that -- strike that.
10 Did Frank Fiorillo -- how did Frank Fiorillo 10:39:39
11 provide his statement to you?
12 A. For the third time he handed it to
13 me.
14 Q. Where was that?
15 A. It was at the checkpoint at the 10:39:48
16 lighthouse.
17 Q. Isn't it true that when he handed
18 it to you that you told Mr. Fiorillo that
19 Tommy Snyder's report made you sick?
20 A. No. 10:40:00
21 Q. Isn't it true that you told him
22 that Tommy Snyder's 42 was a piece of shit?
23 A. No.
24 MR. NOVIKOFF: Objection.
25 Q. Isn't it true that you told them 10:40:07

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1 Hesse
2 that -- that you told Mr. Carter and Mr.
3 Snyder that you thought that Tommy Snyder had
4 it in for the Bosetti's?
5 MR. CONNOLLY: Objection. Them 10:40:20
6 being Mr. Carter?
7 Q. Yes. That Mr. Hesse told
8 Mr. Carter and Mr. Snyder -- strike that.
9 Isn't it true that you told Mr.
10 Fiorillo and Mr. Carter that Tommy Snyder had 10:40:32
11 it in for the Bosetti's?
12 A. No.
13 Q. Did you believe that Tommy Snyder
14 had it in for the Bosetti's?
15 A. No. 10:40:42
16 Q. Did the Bosetti's and Mr. Snyder
17 get along prior to the Halloween incident?
18 MR. CONNOLLY: Objection.
19 A. I don't think specifically, no,
20 they didn't get along. 10:40:55
21 Q. Had you heard a rumor prior to the
22 Halloween incident that Tommy Snyder is the
23 one who alerted Civil Service the summer
24 before to the fact that there were uncertified
25 officers at Ocean Beach? 10:41:07

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1 Hesse
2 MR. BAPTISTE: Objection.
3 MR. CONNOLLY: Objection.
4 MR. NOVIKOFF: Just read back the
5 question. I want to see if I have a 10:41:20
6 basis to object.
7 (Record read.)
8 MR. NOVIKOFF: Actually that is
9 one of your few good questions, I have no
10 objection. 10:41:47
11 A. No.
12 Q. Do you know whether Tom Snyder
13 ever spoke with anyone at the District
14 Attorney's office about the Halloween
15 incident? 10:41:59
16 MR. CONNOLLY: At any time?
17 Q. At any time?
18 MR. CONNOLLY: Does he know?
19 Q. Do you know whether Tom Snyder
20 ever spoke to anybody at the District 10:42:05
21 Attorney's office about the Halloween
22 incident?
23 MR. CONNOLLY: Does he have
24 personal knowledge?
25 MR. GOODSTADT: Did he ever learn 10:42:13

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1 Hesse
2 from anyone --
3 MR. CONNOLLY: Different question.
4 MR. BAPTISTE: Objection.
5 A. Ask the question again. 10:42:19
6 Q. Had you ever heard that Tom Snyder
7 spoke to anyone at the District Attorney's
8 office about the Halloween incident?
9 A. I don't think I specifically
10 heard, I think I read it somewhere. 10:42:30
11 Q. Where did you read it?
12 A. In one of their depositions.
13 Q. What did you think of Tommy
14 Snyder's statement?
15 A. Which statement? 10:42:56
16 Q. The 42.
17 A. I don't know if I really thought
18 anything of it other than this is his
19 recollection of what happened that night.
20 Q. Did you think it was a complete 42 10:43:10
21 or a complete statement of what happened that
22 night?
23 MR. NOVIKOFF: Objection.
24 MR. CONNOLLY: Objection.
25 A. In his opinion. 10:43:17

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1 Hesse
2 **Q. How about in your opinion, did you**
3 **think that was a complete 42?**
4 MR. CONNOLLY: His opinion when?
5 **Q. His opinion when you read it? 10:43:25**
6 A. I think it was complete to the
7 best of Mr. Snyder's knowledge of what
8 happened that night.
9 **Q. Did you doubt any of the**
10 **credibility of any of the statements in the 42 10:43:39**
11 **that Snyder provided?**
12 MR. NOVIKOFF: Objection.
13 MR. CONNOLLY: Again you are
14 talking when he first read it?
15 MR. GOODSTADT: Yes. 10:43:48
16 A. I don't specifically remember.
17 **Q. How about sitting here today do**
18 **you doubt the credibility of any of the**
19 **statements made in the statement?**
20 A. I would have to read it entirely 10:43:59
21 again.
22 MR. CONNOLLY: Objection. You
23 want him to do so?
24 MR. GOODSTADT: Maybe later.
25 **Q. I believe you testified that 10:44:12**

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1 Hesse
2 **Fiorillo handed you a statement, correct, a**
3 **42?**
4 A. From what I recall, yes.
5 **Q. Do you recall what date that was? 10:44:21**
6 A. No.
7 MR. GOODSTADT: Would you mark
8 this document as Hesse Exhibit 24,
9 internal correspondence, November 7,
10 2004. 10:44:35
11 (Hesse Exhibit 24, internal
12 correspondence, November 7, 2004,
13 marked for identification, as of this
14 date.)
15 THE VIDEOGRAPHER: The time is 10:44:56
16 10:46, we are off the record.
17 (Recess taken.)
18 THE VIDEOGRAPHER: The time is
19 11:08, we are on the record.
20 **Q. Mr. Hesse, I placed in front of 11:06:25**
21 **you what is marked Exhibit 24, a multiple page**
22 **exhibit bearing Bates 3194 and 3195. Do you**
23 **recognize the document marked as Hesse Exhibit**
24 **24?**
25 A. Yes. 11:06:38

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1 Hesse
2 **Q. What is this?**
3 A. This is Frank Fiorillo's
4 statement.
5 **Q. The handwritten statement on page 11:06:44**
6 **3195, is that the statement that he handed to**
7 **you at the checkpoint?**
8 A. I believe it is.
9 **Q. Who typed up the first page of**
10 **this exhibit? 11:06:55**
11 A. I did.
12 **Q. How come?**
13 A. Because the piece of paper that he
14 had written it on, it was like crammed on, so
15 I thought to be able to read it a little 11:07:03
16 better I would read it and type it out in case
17 I had to refer to it for anything.
18 **Q. Did you ever speak to Mr. Fiorillo**
19 **about his statement?**
20 A. Specifically I don't recall. 11:07:12
21 MR. NOVIKOFF: You mean after --
22 **Q. After he gave it to him.**
23 MR. NOVIKOFF: Right.
24 **Q. Isn't it true that you told him**
25 **that he needed to file a new statement to 11:07:28**

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1 Hesse
2 **protect the Bosetti's?**
3 A. Absolutely not.
4 MR. CONNOLLY: Objection.
5 I withdraw the objection. 11:07:36
6 A. Absolutely not.
7 **Q. And you don't recall one way or**
8 **the other whether you actually ever spoke to**
9 **Mr. Fiorillo about his statement; is that**
10 **correct? 11:07:49**
11 A. Correct.
12 **Q. So had you spoken to him, if you**
13 **had spoken to him you wouldn't recall anything**
14 **that was stated during that conversation; is**
15 **that correct? 11:07:56**
16 MR. CONNOLLY: Objection.
17 MR. NOVIKOFF: Objection.
18 A. You asked me a specific question
19 of the statement I possibly made, and there is
20 no way I asked him to rewrite this. 11:08:01
21 **Q. That wasn't my question now. The**
22 **question now was had you in fact spoken with**
23 **him, sitting here today you don't recall**
24 **anything that was discussed between the two of**
25 **you? 11:08:13**

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1 Hesse
 2 A. I don't recall specifically when,
 3 where, why or what. I remember receiving this
 4 and reading it.
 5 **Q. I am not talking about you 11:08:22**
 6 **receiving this and reading it. I am talking**
 7 **about any conversations you had with Mr.**
 8 **Fiorillo about his statement after you read it**
 9 **and received it?**
 10 A. Specifically no. 11:08:29
 11 **Q. Did you ever show Mr. Fiorillo's**
 12 **statement to Mr. Snyder?**
 13 A. I don't recall if I did.
 14 **Q. You don't recall one way or the**
 15 **other? 11:08:42**
 16 A. No.
 17 **Q. Do you recall telling Mr. Snyder**
 18 **that it was similar to the piece of shit that**
 19 **he had filed?**
 20 MR. NOVIKOFF: Objection to the 11:08:50
 21 form.
 22 A. No.
 23 MR. NOVIKOFF: Is the question
 24 does he recall stating that or did he say
 25 that? 11:08:57

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1 Hesse
 2 **Q. The question is do you recall**
 3 **stating that?**
 4 A. No.
 5 MR. NOVIKOFF: Objection to form 11:08:59
 6 of the question.
 7 **Q. Did you state that to him?**
 8 A. No.
 9 **Q. Do you recall ever speaking with**
 10 **Mr. Snyder about Mr. Fiorillo's statement? 11:09:03**
 11 A. I don't recall.
 12 **Q. You don't recall one way or the**
 13 **other?**
 14 A. No.
 15 **Q. And sitting here today if that 11:09:11**
 16 **conversation actually occurred you don't**
 17 **recall any of the details of what was said;**
 18 **correct?**
 19 MR. NOVIKOFF: Objection.
 20 MR. CONNOLLY: Objection. 11:09:18
 21 A. Specifically no.
 22 **Q. Or generally?**
 23 MR. NOVIKOFF: Objection.
 24 A. Specifically no.
 25 **Q. Generally you don't recall either; 11:09:21**

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1 Hesse
 2 **correct?**
 3 A. I don't recall having a
 4 conversation with Mr. Snyder, no.
 5 **Q. Did you tell Mr. Fiorillo that 11:09:26**
 6 **Cherry's investigation actually described what**
 7 **happened that night?**
 8 A. Specifically no.
 9 **Q. Did you tell Mr. Snyder that**
 10 **Cherry's investigation actually described what 11:09:44**
 11 **happened that night?**
 12 A. Specifically no.
 13 **Q. Specifically you don't recall or**
 14 **specifically you didn't say that?**
 15 A. I don't specifically remember 11:09:51
 16 saying it that way.
 17 **Q. Do you recall saying it generally**
 18 **in sum and substance that way?**
 19 A. At some point I sat each one of
 20 them down and had a conversation about the 11:10:04
 21 investigation, yes.
 22 **Q. When did you have that sit down**
 23 **with Mr. Fiorillo?**
 24 A. I believe it was after Mr. Schalik
 25 and Mr. Van Koot had already been prosecuted. 11:10:13

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1 Hesse
 2 **Q. What was the substance of that**
 3 **conversation?**
 4 A. I told him that I thought it was a
 5 good idea that he reviewed the entire 11:10:23
 6 investigation package from start to finish to
 7 show him what had happened.
 8 **Q. And do you recall anything else**
 9 **that was stated in that conversation?**
 10 A. Not specifically. 11:10:37
 11 **Q. How about generally?**
 12 A. I believe Mr. Fiorillo sat down
 13 and actually enjoyed reading the entire
 14 arrest.
 15 **Q. What made you believe that? 11:10:48**
 16 A. He sat there and he read the whole
 17 thing and he was shaking his head, yes, yes,
 18 yes, yes, and finished it and said that it was
 19 good.
 20 **Q. Where was that conversation? 11:11:00**
 21 A. In the police station.
 22 **Q. When?**
 23 A. I don't remember the date.
 24 **Q. Who else was there?**
 25 A. I think Mr. Cherry was there. 11:11:07

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1 Hesse
2 **Q. Do you recall how long after the**
3 **plea was done in connection with Mr. Schalik**
4 **or Mr. Van Koot's arrest?**
5 A. It might have been the following 11:11:23
6 summer or season.
7 **Q. So you think it was the summer of**
8 **'05?**
9 A. Possible, yes.
10 **Q. Did you have a sit down with 11:11:32**
11 **Mr. Lamm?**
12 A. Yes.
13 **Q. When did you have that sit down?**
14 A. Probably around the same time.
15 **Q. What was the sum and substance of 11:11:39**
16 **that conversation you had with Mr. Lamm?**
17 A. He chose not to read it.
18 **Q. Do you recall what you said to him**
19 **in sum and substance?**
20 A. I told him this is what the 11:11:46
21 investigation produced, that he should read
22 it.
23 **Q. Anything else that you recall in**
24 **that conversation?**
25 A. Not specifically. 11:11:54

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1 Hesse
2 **Q. How about generally?**
3 A. No. He just seemed very angry.
4 **Q. What do you mean by that?**
5 A. He just seemed like it was a joke. 11:12:00
6 **Q. What did he do that led you to**
7 **believe that he was angry?**
8 A. He took it and he looked at it
9 briefly and he said I am not reading that.
10 **Q. Did you respond to him when he 11:12:13**
11 **said that?**
12 A. Specifically I don't remember what
13 I said.
14 **Q. How about generally?**
15 A. Even generally I don't remember 11:12:20
16 anything else.
17 **Q. What made you believe or led you**
18 **to believe that he thought it was a joke?**
19 A. That is exactly what he said.
20 **Q. He said it is a joke? 11:12:28**
21 A. Yes, he said it is a joke.
22 **Q. What did you understand him to**
23 **mean when he said this was a joke?**
24 MR. CONNOLLY: Objection.
25 A. I specifically remember him saying 11:12:42

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1 Hesse
2 that we are going to sweep this one under the
3 rug too.
4 **Q. When did he say that?**
5 A. During this little conversation 11:12:51
6 that we had when I asked him to read through
7 the investigative pack.
8 **Q. Do you know what he meant by that**
9 **when he said we are going to sweep this one**
10 **under the rug too? 11:12:49**
11 A. I think he felt that there was a
12 cover up.
13 **Q. So he was claiming that there was**
14 **a cover up at that time?**
15 MR. CONNOLLY: Objection. 11:13:08
16 A. There were rumors that that is --
17 that he especially suspected.
18 **Q. I am not talking about rumors, I**
19 **am talking about what he said to you right**
20 **now? 11:13:15**
21 A. Well he said that we were going to
22 sweep this under the rug.
23 **Q. That led you to believe that he**
24 **was claiming that it was being covered up?**
25 A. Yes. 11:13:22

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1 Hesse
2 **Q. How about Mr. Snyder, did you ever**
3 **have a sit down with Mr. Snyder?**
4 A. At some point I did, yes.
5 **Q. When was that? 11:13:29**
6 A. I don't remember the specific
7 date.
8 **Q. When was the sit down with Lamm?**
9 A. It was around the same time I did
10 with Mr. Fiorillo. I think it was early in 11:13:37
11 the season of 2005.
12 **Q. Now, when was the sit down with**
13 **Mr. Snyder?**
14 A. It was later, much later. I don't
15 remember the date specifically. But I thought 11:13:53
16 it would be a good idea that he come in with
17 both Bosetti brothers and have a sit down and
18 try to hash out some of this.
19 **Q. Was that after Mr. Snyder was let**
20 **go? 11:14:20**
21 A. I think it was just before.
22 **Q. Just before he was let go?**
23 A. Yes.
24 MR. NOVIKOFF: When you say let
25 go, we have the same agreement -- 11:14:38

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1 Hesse
 2 MR. GOODSTADT: We have the same
 3 agreement. Hopefully we will have time
 4 to go through when Mr. Hesse said --
 5 MR. NOVIKOFF: Yes. 11:14:53
 6 MR. GOODSTADT: Would you mark
 7 this document as Hesse Exhibit 25, Ocean
 8 Beach Police Department, document dated
 9 11/5/2004.
 10 (Hesse Exhibit 25, Ocean Beach 11:15:02
 11 Police Department, document dated
 12 11/5/2004, marked for identification,
 13 as of this date.)
 14 **Q. Do you recall when you received**
 15 **Mr. Lamm's 42?** 11:15:41
 16 A. I don't.
 17 **Q. Why did you ask him to put this on**
 18 **a 42?**
 19 A. I just wanted him to write it down
 20 and just give me an idea of what they thought 11:15:48
 21 happened.
 22 **Q. Is it standard to have a report of**
 23 **an investigation done on a 42?**
 24 A. They could have wrote it on a 42,
 25 they could have wrote it on a blank piece of 11:16:04

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1 Hesse
 2 paper. I just wanted to know what they
 3 thought happened.
 4 **Q. Do you recall when you received**
 5 **Mr. Lamm's statement?** 11:16:11
 6 A. I don't.
 7 **Q. Was it before or after you**
 8 **received Fiorillo's?**
 9 A. I don't recall.
 10 **Q. How about was it before or after 11:16:15**
 11 **you received Snyder's?**
 12 A. I don't recall.
 13 **Q. Do you recall how you received it?**
 14 A. It might have been through E-mail
 15 or fax, I am not sure. 11:16:23
 16 **Q. I place in front of Mr. Hesse what**
 17 **was marked as Hesse Exhibit 25, it is a**
 18 **two-page exhibit bearing Bates 3192 and 3193.**
 19 **Do you recognize the document**
 20 **marked as Hesse Exhibit 25?** 11:16:39
 21 A. Yes.
 22 **Q. What is this?**
 23 A. This is Mr. Lamm's statement.
 24 **Q. It came in by E-mail?**
 25 A. Yes. 11:16:52

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1 Hesse
 2 **Q. That beach cop 03, that is your**
 3 **E-mail address?**
 4 A. Yes.
 5 **Q. Do you recall it coming in around 11:16:56**
 6 **November 5, 2004?**
 7 A. I guess that is the date that I
 8 received it, or he sent it, I am not sure.
 9 **Q. What was your reaction when you**
 10 **read Mr. Lamm's statement, if any?** 11:17:09
 11 A. I don't remember having a
 12 reaction.
 13 **Q. Did you ever speak with Mr. Lamm**
 14 **about his statement after you received it?**
 15 A. I don't specifically remember. 11:17:18
 16 **Q. You don't recall one way or the**
 17 **other?**
 18 A. No.
 19 **Q. So if you had that conversation**
 20 **with him, sitting here today you don't recall 11:17:26**
 21 **anything that was stated?**
 22 A. Not specifically about his
 23 statement, no.
 24 **Q. How about generally?**
 25 A. I don't know. 11:17:32

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1 Hesse
 2 **Q. What did you think of Mr. Lamm's**
 3 **statement when you received it?**
 4 MR. CONNOLLY: In what regard?
 5 **Q. In any regard?** 11:17:51
 6 A. Repeat that.
 7 **Q. What did you think of his**
 8 **statement when you received it?**
 9 MR. NOVIKOFF: Objection.
 10 A. I took it for what it was worth. 11:17:58
 11 I read it and added it to the pile of papers
 12 that was part of the investigation.
 13 **Q. What do you mean for what it was**
 14 **worth?**
 15 A. This is what his account was of 11:18:10
 16 what happened that night.
 17 **Q. Did you think it was worth**
 18 **anything?**
 19 A. I don't recall. I would have to
 20 read it again. 11:18:16
 21 **Q. Sitting here today you don't**
 22 **recall whether at that time you thought it was**
 23 **worth anything?**
 24 A. I specifically don't remember.
 25 **Q. I believe you testified that at 11:18:23**

Page 603

1 **Hesse**
2 **some point around five days of investigating**
3 **you reached a conclusion as to what happened;**
4 **is that correct?**
5 MR. CONNOLLY: Objection. 11:18:32
6 A. I had an idea of what was going
7 on.
8 **Q. Did you prepare any report?**
9 A. At some point I think I did
10 another field report. 11:18:42
11 **Q. When did you do that?**
12 A. I don't specifically remember the
13 date.
14 **Q. Was it after you reached your**
15 **conclusion?** 11:18:54
16 A. I don't recall.
17 **Q. Why would you do another field**
18 **report?**
19 A. Just to add to the investigation.
20 **Q. Just so we are clear, the** 11:19:01
21 **additional field report that you did is**
22 **something different than what has been marked**
23 **as -- what number was the field report?**
24 A. The original one?
25 **Q. Yes, the one that we marked today.** 11:19:19

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1 **Hesse**
2 A. It was number 18.
3 **Q. Just so it is clear for the**
4 **record, you did a field report that was**
5 **different than the one that has been marked as** 11:19:35
6 **Hesse Exhibit 18?**
7 A. Yes, it was a separate field
8 report.
9 **Q. Do you know where that field**
10 **report is kept?** 11:19:53
11 A. What do you mean where it is kept?
12 **Q. Where it is stored?**
13 A. It is stored as an electronic
14 document in the computer.
15 MR. GOODSTADT: Would you mark as 11:20:14
16 Hesse Exhibit 26, incident report,
17 12/11/2004.
18 (Hesse Exhibit 26, incident
19 report, 12/11/2004, marked for
20 identification, as of this date.) 11:20:46
21 **Q. I placed in front of Mr. Hesse**
22 **what is marked as Hesse Exhibit 26, one-page**
23 **exhibit bearing Bates 3150. Mr. Hesse, is**
24 **this the field report that you are referring**
25 **to?** 11:20:58

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1 **Hesse**
2 A. Yes.
3 **Q. So other than for the -- well,**
4 **strike that.**
5 **This field report doesn't reflect** 11:21:04
6 **the conclusions of your investigation, does**
7 **it?**
8 A. You mean our findings?
9 **Q. Yes.**
10 A. No. 11:21:17
11 **Q. So when I ask you if you prepared**
12 **a report, I was referring to -- maybe you**
13 **misunderstood or I didn't ask the question**
14 **clearly. Did you prepare a report that set**
15 **forth your findings or your conclusions?** 11:21:29
16 A. No.
17 **Q. How come?**
18 A. I don't specifically know why we
19 had to do that.
20 **Q. I am asking why you didn't?** 11:21:39
21 MR. CONNOLLY: Objection.
22 A. I don't think it was what we
23 normally did.
24 **Q. Again just so I am clear for the**
25 **record, when you said another field report,** 11:21:52

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1 **Hesse**
2 **you are referring to Hesse Exhibit 26 and not**
3 **some other document?**
4 A. That is correct.
5 **Q. Now, other than for the witness** 11:21:57
6 **statements, the 42's that we went over, the**
7 **photos, the statements that were taken that**
8 **night from Schalik, to Tesori and Van Koot,**
9 **was there anything else that was placed into**
10 **the Halloween file?** 11:22:17
11 MR. CONNOLLY: Objection.
12 A. Not that I specifically know.
13 **Q. Isn't it true that you told Lamm**
14 **that what was in his statement wasn't what**
15 **happened?** 11:22:40
16 MR. CONNOLLY: Objection.
17 A. I don't recall that.
18 **Q. Isn't it true that you asked**
19 **Mr. Lamm to amend his statement?**
20 A. No. 11:22:49
21 **Q. It is not true or you don't**
22 **recall?**
23 A. It is not true.
24 **Q. There came a point in time where**
25 **you -- strike that.** 11:23:05

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1 Hesse
2 There came a point in time where
3 the five plaintiffs in this matter were
4 terminated from Ocean Beach; is that correct?
5 A. Yes. 11:23:16
6 Q. When was that?
7 A. I believe they -- April 2nd for
8 four of them and it was later for Mr. Snyder.
9 Q. Do you recall when Mr. Snyder was
10 terminated? 11:23:31
11 A. Specifically I don't know the
12 date, no.
13 Q. Do you recall how many -- was it
14 weeks, days, months after April 2nd that Mr.
15 Snyder was terminated? 11:23:42
16 A. It may have been a couple of
17 weeks, I am not specifically sure.
18 Q. Who made the decision to terminate
19 their employment?
20 A. I did. 11:23:55
21 Q. Did you consult with anybody in
22 making that decision?
23 A. I don't think so.
24 Q. When did you make the decision to
25 terminate their employment? 11:24:04

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1 Hesse
2 A. Sometime in I guess January of
3 '06.
4 Q. When did you first alert somebody
5 about the decision to terminate their 11:24:22
6 employment that you made in January of '06?
7 A. I believe what I did is, I didn't
8 know how to go about it, so I called Civil
9 Service and I asked them for a little
10 direction. 11:24:37
11 Q. Who in Civil Service did you call?
12 A. I believe it was Allison Chester
13 at the time.
14 Q. And she was the person in Civil
15 Service assigned to the Ocean Beach account? 11:24:54
16 A. Yes.
17 Q. You dealt with her in the past on
18 Civil Service issues?
19 A. In the past, yes.
20 Q. When was that call? 11:25:00
21 A. I don't specifically know the
22 date.
23 Q. Do you recall what month it was?
24 A. It could have been January,
25 February, even March, I am not positive. 11:25:12

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1 Hesse
2 Q. Is there anything that you can
3 think of that would refresh your recollection?
4 A. No.
5 Q. Did you take any notes of the 11:25:20
6 call?
7 A. No.
8 Q. Did you put it on any calendar or
9 diary?
10 A. No. 11:25:25
11 Q. Tell me what you recall about that
12 call?
13 A. I believe I stated it on the first
14 day of testimony that I called her. I asked
15 her what their rights were as seasonal police 11:25:35
16 officers. I asked her what the Village's
17 rights were and what my rights would be.
18 Q. What did she respond?
19 A. She said that she would have to
20 speak to her supervisor and find out some 11:25:50
21 details and that she would get back to me.
22 Q. Did she ever get back to you?
23 A. Yes.
24 Q. Do you recall who the supervisor
25 was that she had to get in touch with? 11:25:59

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1 Hesse
2 A. I don't know.
3 Q. What did she tell you when she got
4 back to you?
5 A. She told me that all part-time 11:26:06
6 seasonal officers are at will employees, and
7 that you could terminate or not rehire or just
8 not ask them back for any reason without
9 cause.
10 Q. Did she tell you that there are 11:26:23
11 any reasons that couldn't form the basis of
12 the decision to terminate their employment?
13 A. No.
14 Q. Just so I am clear at that point
15 in time what was your title? 11:26:43
16 A. At that time I was the -- I was
17 appointed Acting Deputy Chief.
18 MR. CONNOLLY: We are talking
19 about when you are saying at that point
20 in -- 11:26:53
21 MR. GOODSTADT: When he had this
22 conversation.
23 MR. CONNOLLY: Yes.
24 Q. Just so I am clear for the record
25 at no point were you the mayor of Ocean Beach; 11:26:59

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1 Hesse
2 correct?
3 A. No.
4 **Q. At no point were you the acting**
5 **mayor?** 11:27:03
6 MR. NOVIKOFF: We can stipulate to
7 that.
8 A. No.
9 MR. GOODSTADT: We have some
10 testimony from Civil Service as to who 11:27:10
11 can make these decisions.
12 MR. NOVIKOFF: But we can
13 stipulate that he was never the mayor,
14 acting mayor, trustee, acting trustee
15 member or clerk. 11:27:18
16 **Q. Were you ever the clerk of the**
17 **Village of Ocean Beach?**
18 A. No.
19 **Q. Acting clerk of the Village of**
20 **Ocean Beach?** 11:27:24
21 A. No.
22 **Q. Do you recall anything else in**
23 **that conversation that you had with**
24 **Ms. Chester, the second conversation?**
25 A. No. 11:27:33

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1 Hesse
2 **Q. When was the first time that you**
3 **alerted anybody who was either an employee of**
4 **the Village of Ocean Beach or a member of the**
5 **Board of Trustees of Ocean Beach about your** 11:27:46
6 **decision to terminate the five plaintiffs?**
7 A. I believe I wrote a memo to the
8 Village Clerk and to I think I cc'd it to the
9 mayor and Trustee Loeffler.
10 **Q. Do you recall when that was?** 11:28:03
11 A. The specific date that I wrote it,
12 April 4th, somewhere in there.
13 **Q. It was after you had already**
14 **notified four of the five plaintiffs that they**
15 **were terminated?** 11:28:16
16 A. Yes.
17 MR. GOODSTADT: Would you mark
18 this document as Hesse Exhibit 27, letter
19 dated March 11, 2006.
20 (Hesse Exhibit 27, letter dated 11:28:20
21 March 11, 2006, marked for
22 identification, as of this date.)
23 **Q. I place in front of Mr. Hesse what**
24 **has been marked as Hesse Exhibit 27, a**
25 **one-page exhibit bearing Bates 2662.** 11:28:55

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1 Hesse
2 **Mr. Hesse, do you recognize the**
3 **document that has been marked as Hesse Exhibit**
4 **27?**
5 A. Yes. 11:29:07
6 **Q. What is this document?**
7 A. This was a memo sent out to all
8 officers of the department to come for a
9 meeting.
10 **Q. Did you send this to the five** 11:29:18
11 **plaintiffs?**
12 A. Yes.
13 **Q. Why did you send it to the five**
14 **plaintiffs if you made the decision to**
15 **terminate their employment?** 11:29:23
16 A. Because I wanted them to come to
17 the meeting with all their equipment.
18 **Q. You see in the fourth line down in**
19 **this memo it says new ID will be issued to**
20 **all?** 11:29:37
21 A. Yes.
22 **Q. Why did you send that to the**
23 **plaintiffs saying that new ID would be issued**
24 **to all?**
25 A. It was a generic letter that I 11:29:44

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1 Hesse
2 sent to all members of the department.
3 **Q. So you didn't mean that new ID**
4 **would be issued to all of the people who were**
5 **invited to the meeting; is that correct?** 11:29:54
6 A. Yes. You are correct.
7 **Q. Did you speak with any other --**
8 **strike that.**
9 **Did you alert any other police**
10 **officers at Ocean Beach that the plaintiffs** 11:30:07
11 **were going to be terminated prior to April 2,**
12 **2006?**
13 A. Yes.
14 **Q. Who did you speak with?**
15 A. Only one, Paul Trosko, who was my 11:30:14
16 full-time police officer.
17 **Q. What did you tell Paul Trosko?**
18 A. I told him what I was going to do.
19 **Q. Did you tell him why you were**
20 **going to do it?** 11:30:26
21 A. I don't remember specifically.
22 **Q. This April 2006, that is the first**
23 **year, the first season in which you were the**
24 **Deputy Chief?**
25 MR. NOVIKOFF: Objection to the 11:30:37

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1 Hesse
 2 form only to the extent that the question
 3 implies that April 2nd is part of the
 4 season.
 5 **Q. That is a good point. 11:30:47**
 6 **The meeting on April 2nd, that was**
 7 **the first preseason meeting that you presided**
 8 **over as Deputy Chief or Acting Deputy Chief?**
 9 A. Yes.
 10 **Q. In all the other prior seasons Ed 11:30:59**
 11 **Paradiso was still actively working as the**
 12 **chief?**
 13 A. Yes.
 14 **Q. And as you understand it this was**
 15 **the first year, 2006, in which you had the 11:31:13**
 16 **authority to hire and fire?**
 17 A. That is what I believed, yes.
 18 **Q. Did you notify Ed Paradiso that**
 19 **you had terminated the five plaintiffs**
 20 **employment prior to telling them on April 2nd? 11:31:31**
 21 MR. CONNOLLY: Objection to the
 22 form.
 23 A. I don't think I did.
 24 **Q. Why not?**
 25 A. Well we were really not on 11:31:39

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1 Hesse
 2 speaking terms at that point.
 3 **Q. What do you mean by that?**
 4 A. We just didn't see eye-to-eye on
 5 certain things, and I was told that I was put 11:31:57
 6 in charge of the Police Department because he
 7 was not expected to come back and I was in
 8 charge. I didn't have to check in with him.
 9 **Q. Who told you that he was not**
 10 **expected to come back? 11:32:06**
 11 A. It was everybody's belief, the
 12 village board, the mayors, everybody.
 13 **Q. You said that you were told that**
 14 **you were in charge of the police station, he**
 15 **wasn't expected back. Who told you that? 11:32:14**
 16 A. It might have been Trustee
 17 Loeffler.
 18 **Q. When you say Trustee Loeffler,**
 19 **Joseph Loeffler, Jr.?**
 20 A. Yes. 11:32:21
 21 **Q. Did he tell you that you didn't**
 22 **need to check in with Ed Paradiso on decisions**
 23 **affecting the police station?**
 24 MR. CONNOLLY: Objection.
 25 A. Specifically no. 11:32:34

Page 617

1 Hesse
 2 **Q. Did you invite Ed Paradiso to the**
 3 **meeting?**
 4 A. No.
 5 **Q. How come? 11:32:40**
 6 A. I don't know.
 7 **Q. Why did you terminate Frank**
 8 **Fiorillo?**
 9 A. Because of his regular
 10 insubordination and I felt that now that I was 11:32:56
 11 the chief that he would continue with his
 12 insubordination.
 13 **Q. Any other reasons?**
 14 A. No.
 15 **Q. What incidents of insubordination 11:33:10**
 16 **led you to terminate him?**
 17 A. Like I stated on the first day,
 18 specifically one incident that sticks out is
 19 we were driving in to work, it was myself,
 20 John Dwyer, Paul Corolla and Mr. Fiorillo in 11:33:27
 21 the car. I had given an order to John Dwyer
 22 who was a paramedic at the time to please go
 23 over all the medical gear in the station house
 24 to make sure that we have all our equipment
 25 up-to-date, and I turned around and I asked 11:33:47

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1 Hesse
 2 Mr. Fiorillo if he could please wash the
 3 windows, the front windshield of the car when
 4 we got back to the station house, and he flat
 5 out told me no. 11:34:00
 6 I turned around, I said what do
 7 you mean no. His phrase to me is I am not
 8 fucking doing it. Get somebody else to do it.
 9 I do enough around here. I stopped the
 10 vehicle and I said if he chose not to do it he 11:34:17
 11 can go home. He shut up and we drove the rest
 12 of the way into work and then I told him not
 13 to do it and I put him on a post.
 14 **Q. Was Frank Fiorillo on duty when**
 15 **you told him to wash the windows? 11:34:33**
 16 A. Yes.
 17 MR. NOVIKOFF: Was he on duty when
 18 he made the request in the car, or was he
 19 on duty when he was asked to actually
 20 wash the car? 11:34:46
 21 **Q. Was he on duty when you made the**
 22 **request in the car?**
 23 A. Yes.
 24 **Q. Was he on duty at the time that**
 25 **you wanted him to actually perform the washing 11:34:52**

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1 Hesse
2 of the window?
3 A. He would have been on duty, yes.
4 Q. Was he getting paid for that time?
5 A. Yes. 11:35:00
6 MR. NOVIKOFF: Objection.
7 MR. CONNOLLY: Which time?
8 Q. Was he getting paid for the time
9 that you wanted him to wash the window?
10 A. Yes. 11:35:10
11 Q. Was he getting paid at the time
12 that you had directed him not to wash the
13 window?
14 A. Yes.
15 Q. Are you sure about that? 11:35:16
16 A. We were in the police car.
17 Q. Did you write Mr. Fiorillo up for
18 that?
19 A. Yes, I did.
20 Q. Did you put it in his personnel 11:35:27
21 file?
22 A. Yes.
23 RQ Q. I would like to mark the record to
24 request the production of the alleged
25 write-up, I don't think we have it. 11:35:42

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1 Hesse
2 MR. CONNOLLY: I am sure it was
3 requested?
4 THE WITNESS: It was.
5 Q. Did you report Mr. Fiorillo to Ed 11:35:50
6 Paradiso?
7 A. Yes.
8 Q. Do you know whether Mr. Fiorillo
9 reported the incident to Ed Paradiso?
10 A. Yes, he did. 11:36:01
11 Q. Did Ed Paradiso tell you that
12 Fiorillo had complained to him about the
13 incident?
14 A. Yes, he did.
15 Q. Is it true that you placed Mr. 11:36:12
16 Fiorillo in the same post for three straight
17 tours and told him he couldn't move in
18 response to his complaint to Mr. Paradiso?
19 A. No, I did not.
20 MR. NOVIKOFF: Your question was 11:36:27
21 kind of compound. I didn't object, I
22 will take his answer, but you may want to
23 clarify.
24 Q. Did you ever place Mr. Fiorillo at
25 the same post for three straight tours and 11:36:35

Page 621

1 Hesse
2 direct him not to move?
3 MR. CONNOLLY: At any time?
4 Q. At any time?
5 A. Pretty much the same compound 11:36:42
6 question, but he was put on a post for three
7 days, but he can move around.
8 Q. What post?
9 A. The corner of Denhoff and Bay
10 Walk. 11:36:55
11 Q. Was that in response to his
12 complaint to Mr. Paradiso?
13 A. No.
14 Q. Was it at or about the same time
15 or shortly after his complaint to Mr. 11:37:04
16 Paradiso?
17 A. No.
18 Q. Was it before or after the
19 complaint to Mr. Paradiso that he was placed
20 on that corner? 11:37:12
21 A. It was before.
22 Q. Was it before or after he was told
23 to wash the windows?
24 A. It was after.
25 Q. So you put him at that post on 11:37:22

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1 Hesse
2 Denhoff in response to his refusal to wash the
3 windows?
4 A. Yes.
5 Q. Did you tell him that? 11:37:31
6 A. Yes.
7 Q. Is that reflected in your write-up
8 of him?
9 A. I don't specifically remember.
10 Q. Did you tell anybody that you were 11:37:39
11 placing him, other than Mr. Fiorillo, did you
12 tell anyone else that you were placing him at
13 that corner for refusing to wash the windows?
14 A. I don't recall.
15 Q. What was the reason that you told 11:37:51
16 Mr. Fiorillo that he was being terminated?
17 A. Mr. Fiorillo's regular patrol duty
18 was the use of a G.E.M. car and residential
19 patrol, that was like his favorite thing to
20 do, and so I took it away from him and I put 11:38:09
21 him on a foot post.
22 MR. CONNOLLY: Different question.
23 Q. My question is what reason did you
24 tell Mr. Fiorillo on April 2, 2006 was the
25 reason for his termination? 11:38:22

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1 Hesse
 2 MR. NOVIKOFF: Objection to the
 3 form.
 4 **Q. At some point on April 2, 2006 you**
 5 **told Mr. Fiorillo -- at some point on April 2, 11:38:31**
 6 **2006 you told Mr. Fiorillo that he was being**
 7 **terminated; correct?**
 8 A. Yes, I told him he was not coming
 9 back to work.
 10 **Q. What reason did you give him for 11:38:41**
 11 **making that decision to terminate his**
 12 **employment?**
 13 A. I flat out told him because of his
 14 insubordination on a regular basis is why I
 15 felt it necessary that he did not any longer 11:38:55
 16 work for us or me.
 17 **Q. You didn't tell him that it was**
 18 **due to budget cuts?**
 19 A. Absolutely not.
 20 **Q. And other than for the one 11:39:06**
 21 **incident that you testified to what other**
 22 **incidents of insubordination led you to**
 23 **terminate his employment?**
 24 A. There were other incidents that
 25 were not written up because I felt it 11:39:15

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1 Hesse
 2 justified enough to speak to the individual
 3 officer. But one that -- there was one night
 4 in particular, I don't remember the date, it
 5 was probably in 2004, we had a possible rape 11:39:27
 6 investigation going on, we were backed up on
 7 paperwork and I asked him stop writing
 8 summonses, you are backing up the log, you are
 9 tying up the radio.
 10 I had to take him off his post, 11:39:42
 11 take a post in front of the police station,
 12 and he subsequently started to write more
 13 summonses. He just -- that was a regular type
 14 of situation that would go on with Mr.
 15 Fiorillo. 11:39:58
 16 **Q. When was that incident?**
 17 A. It might have been in 2004.
 18 **Q. And did you ever speak to Chief**
 19 **Paradiso about that?**
 20 A. About that specifically, no. 11:40:04
 21 **Q. How come?**
 22 A. Because I didn't find it
 23 necessary.
 24 **Q. But that was one of the reasons**
 25 **that you terminated his employed? 11:40:11**

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1 Hesse
 2 MR. NOVIKOFF: Objection.
 3 A. Why I didn't ask him back, yes.
 4 **Q. I think you said you didn't write**
 5 **him up; correct? 11:40:19**
 6 A. That is correct.
 7 **Q. Any other alleged incidents of**
 8 **insubordination that led you to terminate his**
 9 **employment?**
 10 A. There were others, but 11:40:24
 11 specifically I can't recall.
 12 **Q. So the only two that you can**
 13 **recall are the two that you testified to?**
 14 A. Right now, yes.
 15 **Q. Did you tell him that those two 11:40:35**
 16 **specific instances led to his termination?**
 17 A. I don't know if I said those two
 18 incidents specifically, but I told him about
 19 his insubordination. I told him that it was
 20 best that he just move on with his life. 11:40:47
 21 **Q. Anything else discussed during**
 22 **that conversation that you had with Mr.**
 23 **Fiorillo on April 2nd?**
 24 A. Yes, he proceeded to state that he
 25 would do whatever I asked him to do, and I 11:40:56

Page 626

1 Hesse
 2 told him I didn't believe him, and that he
 3 should just move on and we shook hands and
 4 parted ways.
 5 **Q. Anything else discussed during 11:41:08**
 6 **that meeting?**
 7 A. No.
 8 **Q. Where was that meeting held?**
 9 A. That was a one-on-one conversation
 10 that he and I had in the what is called the 11:41:14
 11 boat house in Ocean Beach.
 12 **Q. So there was nobody else during**
 13 **that conversation?**
 14 A. Not inside the room, no.
 15 **Q. What did you tell Mr. Carter the 11:41:28**
 16 **reason for his layoff?**
 17 A. Well, Mr. Carter did want a leave
 18 of absence which he took on his own and, you
 19 know, I explained to him that his -- he would
 20 sleep on duty regularly and he would brag 11:41:53
 21 about it. And I explained to him, you just
 22 had twins, you have a full-time job, then you
 23 come into Ocean Beach to sleep. It is not
 24 fair to me and the other officers, that he
 25 would brag about it and everything else. 11:42:10

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1 Hesse
2 I just told him, I said maybe it
3 is best that you just concentrate on your
4 family life, concentrate on your job and just
5 move on. 11:42:19
6 **Q. Did you ever witness him sleeping**
7 **on the job?**
8 A. Yes.
9 **Q. How many times?**
10 A. Over 16 years of working with him, 11:42:24
11 I don't know, a handful.
12 **Q. Did you ever write him up for it?**
13 A. No.
14 **Q. How come?**
15 A. Because I didn't find it necessary 11:42:33
16 to write him up for it.
17 **Q. Did you ever speak with Ed**
18 **Paradiso about Mr. Carter's sleeping on the**
19 **job?**
20 A. I don't specifically recall. 11:42:45
21 **Q. Did you ever speak with any of the**
22 **prior chiefs that you worked under -- did you**
23 **work under any other prior chiefs?**
24 A. No.
25 **Q. So you don't recall ever speaking 11:42:53**

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1 Hesse
2 **with Mr. Paradiso about your allegation that**
3 **Mr. Carter slept?**
4 A. No.
5 **Q. Did you ever counsel him about his 11:43:01**
6 **sleeping.**
7 A. I spoke to him about it.
8 **Q. How many times?**
9 A. I don't recall.
10 **Q. Was anybody present during these 11:43:09**
11 **alleged conversations?**
12 A. No.
13 **Q. Is that the reason why you**
14 **terminated Ed Carter?**
15 A. That is the reason why I let him 11:43:20
16 go, yes.
17 **Q. Isn't it true that you told him**
18 **that he was being terminated because of**
19 **directives?**
20 MR. CONNOLLY: Objection. 11:43:31
21 A. Well the directives being sleeping
22 on duty, yes.
23 **Q. You explained to him that that was**
24 **the directive that he was being terminated**
25 **for? 11:43:40**

Page 629

1 Hesse
2 A. Specifically yes, he should not be
3 sleeping on duty.
4 **Q. I am asking is that what you told**
5 **him specifically? 11:43:49**
6 MR. CONNOLLY: Using that specific
7 word.
8 A. I may have used the word
9 directive, failed to follow directive of not
10 to sleep on duty. I may have said that, yes. 11:43:56
11 **Q. I just want to be clear, you told**
12 **him that his sleeping was the reason why you**
13 **were terminating him?**
14 A. Yes.
15 **Q. Was anybody else there when you 11:44:06**
16 **told him that?**
17 A. No, that was a one-on-one
18 conversation.
19 **Q. Did you tell Paul Trosko that that**
20 **was the reason that you were terminating Ed 11:44:16**
21 **Carter?**
22 A. Yes.
23 **Q. Did you tell Paul Trosko that that**
24 **was the reason why you were terminating Mr.**
25 **Fiorillo? 11:44:29**

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1 Hesse
2 A. Yes.
3 **Q. Did you tell anyone on the Board**
4 **of Trustees to whom you sent the memo to that**
5 **the reason that you fired Ed Carter was 11:44:35**
6 **because he was sleeping?**
7 A. I don't know if I specifically.
8 **Q. Did you tell anyone on the Board**
9 **of Trustees that the reason why you fired**
10 **Frank Fiorillo was due to his insubordination? 11:44:45**
11 MR. CONNOLLY: Again making
12 reference to the memo?
13 **Q. The people that you sent the memo**
14 **to?**
15 A. Specifically I didn't write it in 11:44:52
16 the memo, no.
17 **Q. How about in any other way did you**
18 **communicate to the trustees to whom you wrote**
19 **that memo to that the reason that you fired**
20 **Fiorillo was due to his alleged 11:45:05**
21 **insubordination?**
22 MR. CONNOLLY: Again at any time?
23 A. I believe I did.
24 **Q. Who did you tell that to?**
25 A. Trustee Loeffler and Mayor Rogers, 11:45:13

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1 Hesse
2 and I believe in conversation I had said
3 something to Maryann Minerva, the Village
4 Clerk.
5 **Q. As to the reason why?** 11:45:28
6 A. Yes.
7 **Q. When was that?**
8 A. I don't recall the dates.
9 **Q. Was it before or after you told**
10 **them that you were terminating him?** 11:45:35
11 A. I believe it was after.
12 **Q. How long after?**
13 A. I don't know.
14 **Q. Was it days, weeks, months, years?**
15 A. It could have been. 11:45:40
16 **Q. Which one?**
17 A. It could have been all of them
18 over the course, time after time of talking
19 about this. I don't know.
20 **Q. When was the first time that you** 11:45:49
21 **informed Maryann Minerva of the reasons that**
22 **you terminated the five plaintiffs?**
23 A. Probably after I wrote the memo
24 and sent the memo on to them.
25 **Q. How long after?** 11:46:04

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1 Hesse
2 A. I don't recall.
3 **Q. Why did you terminate Kevin Lamm?**
4 A. You know, Kevin is -- that is a
5 unique situation. This guy left on his own, 11:46:14
6 never put anything in writing, took a
7 full-time job somewhere else. I kind of heard
8 that he got a full-time job. He didn't work
9 for six or eight months. You know, he is an
10 angry individual. He abuses the people that 11:46:31
11 he deals with, that he came in contact with.
12 He was another one that could be
13 insubordinate every once in a while. I just
14 thought that it was best that he moved on with
15 his career and stayed at his full-time job. 11:46:46
16 **Q. Did you ever report to Ed Paradiso**
17 **that Kevin Lamm allegedly abused people who he**
18 **came in contact with?**
19 A. Specifically no, I don't remember.
20 **Q. Do you think that would have been** 11:46:57
21 **important to tell the Chief of Police that one**
22 **of his police officers was abusing people?**
23 A. Yes, we had conversations, we had
24 these conversations. But Ed Paradiso kind of
25 liked these guys and had a soft spot for them. 11:47:11

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1 Hesse
2 So I guess he thought it wasn't a big deal, I
3 don't know.
4 **Q. When was the first time that Kevin**
5 **Lamm abused somebody?** 11:47:21
6 A. I don't know. I don't recall.
7 **Q. How come you didn't ask for his**
8 **termination at that point in time?**
9 A. I worked with Kevin when I was
10 just a PO, it was not my job. 11:47:33
11 **Q. How about when you became a**
12 **supervisor?**
13 A. We had some conversations.
14 **Q. How come you didn't ask for his**
15 **termination at that time?** 11:47:41
16 A. Because I didn't find it necessary
17 and it was not my job to terminate him.
18 **Q. Has Kevin ever been sued for any**
19 **alleged abuse?**
20 A. I don't know. 11:47:50
21 **Q. What was the reason that you told**
22 **Kevin Lamm that you were terminating him?**
23 A. Just exactly how I explained it to
24 you. He left, he didn't put anything in
25 writing. He took a full-time job and I 11:48:03

Page 634

1 Hesse
2 thought it was best that he just move on.
3 **Q. Is it true that you told him that**
4 **it was due to budget cuts?**
5 A. No. 11:48:13
6 **Q. Were there budget cuts that year?**
7 A. No.
8 **Q. Had you ever spoken to Ed Paradiso**
9 **that you wanted to terminate Kevin Lamm?**
10 A. You know specifically I don't 11:48:30
11 remember.
12 **Q. Why did you terminate Tom Snyder?**
13 A. You know, Tommy at the end, at the
14 end of his employment he wasn't showing up to
15 work, he was giving other guys his tours 11:48:44
16 without calling in. I think he had some
17 personal issues going on and, you know, it is
18 funny because I never had a specific
19 conversation with Tommy about saying that I
20 was letting him go or anything. He just kind 11:49:00
21 of faded away, and I had no hours available
22 for him, and I just didn't put him back on the
23 schedule. So we never had an official
24 conversation.
25 **Q. Did you ever write Kevin Lamm up** 11:49:14

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1 Hesse
2 **for his alleged abuse?**
3 A. I don't recall specifically. I
4 don't think so.
5 **Q. Did you ever write him up for 11:49:22**
6 **insubordination?**
7 A. I don't think so.
8 **Q. Did you ever write him up for**
9 **being angry?**
10 A. I don't think so, no. 11:49:29
11 **Q. When did you tell Mr. Snyder that**
12 **he was being terminated?**
13 A. I think I just stated, I don't
14 think I ever actually told him that.
15 **Q. Did you meet with him on the dock 11:49:55**
16 **one night and asked for his shield and weapon?**
17 A. Yeah, we actually met up when I
18 was working for the harbor police and he was
19 working for the town. I actually met him at
20 the Maple Avenue dock. I needed -- I actually 11:50:11
21 needed his weapon back so I could get somebody
22 else qualified on the Glock, because I was
23 short weapons. But I don't know if he
24 specifically turned in his shield that day
25 either. 11:50:29

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1 Hesse
2 **Q. Did you schedule to meet him**
3 **there?**
4 A. I think it was like a chance
5 thing, that he was working, I was working and 11:50:35
6 we met up.
7 **Q. Did you run into each other?**
8 A. No, I think we communicated
9 somehow, because I might have asked him that I
10 needed the weapon back and he knew that I was 11:50:45
11 working this particular day, so we met up and
12 he handed over his weapon.
13 **Q. Why did you tell him that you were**
14 **terminating him?**
15 A. Well for the third time I don't 11:50:57
16 think I ever told him that he was being
17 terminated.
18 **Q. Isn't it true that you told him**
19 **that it was because he was the guy who ratted**
20 **to Civil Service about the uncertified 11:51:06**
21 **officers?**
22 A. Absolutely not.
23 **Q. Did he hand over his shield that**
24 **day?**
25 A. I don't remember. 11:51:22

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1 Hesse
2 **Q. Why did you terminate Joe Nofi?**
3 A. Joe Nofi, he was a unique person.
4 He just could never concentrate on one thing.
5 His summonses were poor, his appearance was 11:51:38
6 poor. It was always a scheduling conflict
7 with him. You know, he would be scheduled to
8 work, he wouldn't show up, he would have
9 somebody else take his tour. I just didn't
10 want to tolerate it any more, so I asked him 11:51:55
11 to move on also.
12 **Q. What were the reasons that you**
13 **told him that he was being terminated?**
14 A. I just explained that, I gave him
15 the same jargon that I just give you. That 11:52:05
16 his appearance was poor, his work was poor,
17 his attitude was poor. His interaction with
18 people was really poor.
19 **Q. Did you ever write him up for his**
20 **poor summonses? 11:52:23**
21 A. No.
22 **Q. Did you ever write him up for a**
23 **poor appearance?**
24 A. No.
25 **Q. Did you ever write him up for 11:52:29**

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1 Hesse
2 **scheduling conflicts?**
3 A. He has been written up for that.
4 I wouldn't say written up, but advised not to
5 do that. 11:52:37
6 **Q. In writing?**
7 A. Yes.
8 RQ Q. I would like to mark the record to
9 request production of any alleged written
10 warning or writings that -- 11:52:45
11 A. It has been produced.
12 **Q. Did you ever write him up for his**
13 **poor interaction with people?**
14 A. No.
15 **Q. Did you ever discuss any of those 11:52:55**
16 **issues with Ed Paradiso?**
17 A. Yes.
18 **Q. Which ones?**
19 A. All of them.
20 **Q. What was Ed Paradiso's response? 11:53:03**
21 A. You know, I don't really recall.
22 **Q. Isn't it true that you told Joe**
23 **Nofi that he was being terminated due to**
24 **budget cuts?**
25 A. No. 11:53:19

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1 Hesse
2 **Q. Isn't it true that you told him on**
3 **that day that he is not like the other four**
4 **assholes that you were terminating?**
5 A. No way. 11:53:30
6 **Q. You told him he was a good man and**
7 **a good father?**
8 A. No.
9 **Q. Was anyone else present when you**
10 **told Joe Nofi the reasons for his termination? 11:53:37**
11 A. No.
12 MR. NOVIKOFF: I don't think you
13 asked that question with regard to the
14 other plaintiffs.
15 **Q. Was anyone else present when you 11:53:43**
16 **informed Mr. Lamm that he was terminated?**
17 A. No.
18 **Q. Was anyone else present when you**
19 **told Mr. Fiorillo that he was terminated?**
20 A. No. 11:53:57
21 **Q. Was anyone else present on the**
22 **docks the night that you spoke to Mr. Snyder**
23 **about returning his weapon and shield?**
24 A. It was a day shift, but no.
25 **Q. Was anyone else present at the 11:54:07**

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1 Hesse
2 **time that you told Carter the reasons for his**
3 **termination?**
4 A. No.
5 **Q. Why did you wait for them to come 11:54:12**
6 **to the meeting on April 2nd to tell them that**
7 **you were terminating their employment?**
8 A. I thought it was the best way to
9 just get all the equipment back and be able to
10 just have a sit down with them and tell them 11:54:29
11 what was going on.
12 **Q. Did you think that it would be**
13 **humiliating in front of the other officers who**
14 **were assembled for the meeting?**
15 A. At the time, no. 11:54:39
16 **Q. How about now, do you think it was**
17 **humiliating?**
18 A. In retrospect I should have done
19 it a better way.
20 **Q. When did you decide to terminate 11:54:47**
21 **Snyder?**
22 A. You know, I always liked Tommy, he
23 is a good guy. I always thought he was a hard
24 worker. But I thought at the end he just had
25 some personal issues that were affecting his 11:55:06

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1 Hesse
2 job performance. He seemed to be angry with
3 some of the other employees, and I thought it
4 was just best that he move on at that time.
5 **Q. Which other employees was he angry 11:55:16**
6 **with?**
7 A. Oh God. Ty Bacon, the Bosetti
8 brothers, Arnie Hardman. Anybody that came on
9 from the City job that came on to our job for
10 some reason he had some kind of disdain toward 11:55:32
11 City cops, and it was just becoming an issue.
12 **Q. Is that one of the reasons that**
13 **you terminated him?**
14 A. It was one of the reasons why,
15 yes. 11:55:43
16 **Q. Did he tell you why he didn't like**
17 **the Bosetti's or Bacon or Hardman?**
18 A. Well there were comments being
19 made by him and Carter about City cops because
20 I think their boss on their job was a retired 11:55:54
21 City cop that just got in trouble on their
22 job, and for some reason they just hated City
23 cops.
24 **Q. They told you that?**
25 A. Who is they? 11:56:09

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1 Hesse
2 **Q. Mr. Snyder and I guess Ed Carter?**
3 A. Yes, they had told me that.
4 **Q. And they told you that they didn't**
5 **like the Bosetti's because of that reason? 11:56:19**
6 A. I don't know if it was entirely
7 specifically that reason, but that was
8 definitely part of it.
9 **Q. Did you ever speak to the**
10 **Bosetti's about their feelings for Snyder? 11:56:27**
11 MR. NOVIKOFF: Objection.
12 Foundation.
13 A. I think it was known.
14 **Q. What was known?**
15 A. That they did not get along. They 11:56:36
16 didn't like each other.
17 **Q. Why didn't the Bosetti's like**
18 **Snyder?**
19 MR. CONNOLLY: Objection.
20 MR. NOVIKOFF: Objection. 11:56:44
21 A. I think the Bosetti's felt that
22 Tommy Snyder and -- Tommy Snyder specifically
23 with the Halloween incident, they thought it
24 was a set up on them to get them into trouble.
25 **Q. Did you think it was a set up on 11:56:58**

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1 Hesse
2 them?
3 A. No.
4 Q. When did the Bosetti's let you
5 know that they thought it was a set up? 11:57:03
6 A. I think when I finally started to
7 talk to them about the Halloween incident,
8 they kept feeling that they were being set up.
9 Q. Do you recall when the first time
10 that they told you that? 11:57:22
11 A. Specifically no. I brushed it
12 off.
13 Q. Did there come a point in time
14 where you announced to the department the
15 termination of the five plaintiffs? 11:57:40
16 A. No.
17 Q. Did you tell them that day that
18 the five plaintiffs were being terminated?
19 MR. CONNOLLY: They being those
20 present at the meeting. 11:57:48
21 MR. GOODSTADT: Yes. Right.
22 MR. NOVIKOFF: Well actually your
23 question I think he testified that he had
24 not made the decision about Snyder prior
25 to April 2nd. 11:57:58

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1 Hesse
2 Q. Did you announce to the officers
3 who were at the meeting that you had
4 terminated some of the plaintiffs?
5 A. I don't know -- 11:58:09
6 Q. Or all of the plaintiffs?
7 A. I don't think I made an
8 announcement.
9 Q. Did you tell them, did you tell
10 anybody there that day that any of the 11:58:17
11 plaintiffs had been terminated?
12 A. I think I was specifically asked
13 and I said that they are going to move on with
14 their lives.
15 Q. Did you tell them why? 11:58:26
16 A. No.
17 Q. Isn't it true that you told the
18 assembled officers that you terminated Carter
19 and Snyder because you thought they were going
20 to wear a wire for the DA? 11:58:36
21 A. No.
22 Q. Do you recall what Gary Bosetti's
23 reaction was when you told him that the
24 plaintiffs were terminated?
25 A. What his specific reaction was, 11:58:49

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1 Hesse
2 no.
3 Q. What Richard Bosetti's reaction
4 was?
5 A. I don't know. 11:58:51
6 Q. Isn't it true that they said its
7 about time that you got rid of those assholes?
8 A. No.
9 Q. Isn't it true that you told Gary
10 Bosetti that he owed you hours for making that 11:59:00
11 decision?
12 A. I don't understand what you mean
13 by that.
14 Q. That he owed you hours to work,
15 extra tours for terminating the plaintiffs? 11:59:11
16 A. That he, Gary, owes me hours?
17 Q. Yes.
18 A. I don't know what you mean by
19 that, no.
20 Q. Were other part-time officers 11:59:21
21 hired, newly hired for that summer?
22 A. Yes.
23 Q. How many?
24 A. Three I believe.
25 Q. Was Chris Moran at the meeting of 11:59:29

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1 Hesse
2 the remaining department?
3 A. I think so.
4 Q. Were any full-time officers hired
5 that year? 11:59:44
6 A. Yes.
7 Q. How many?
8 A. I think just one.
9 Q. Who was hired that year?
10 A. I think that was Paul Trosko. 11:59:50
11 Q. When was he hired?
12 A. I don't remember the exact date.
13 Q. Do you recall when he started
14 working?
15 A. I would have to look back in the 12:00:04
16 records, no.
17 MR. GOODSTADT: Off the record.
18 MR. CONNOLLY: The calendar year
19 2006, when you said that year?
20 MR. GOODSTADT: Yes, I mean that 12:00:18
21 year, 2006. Off the record for two
22 seconds.
23 THE VIDEOGRAPHER: The time is
24 12:02, we are off the record.
25 (Recess taken.) 12:00:28

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1 Hesse
 2 THE VIDEOGRAPHER: The time is
 3 12:15, we are on the record.
 4 **Q. Is there something that you wanted**
 5 **to add? 12:13:45**
 6 A. You had asked about hiring
 7 full-time police officers?
 8 **Q. Right.**
 9 A. Trosko was one, but we hired
 10 another officer, Frank Foti, he might have 12:13:53
 11 been at the end of 2006 or 2007.
 12 **Q. Sir, isn't it true that after you**
 13 **terminated the plaintiffs that you threatened**
 14 **that Kevin Lamm, Frank Fiorillo and Joe Nofi's**
 15 **law enforcement careers are over? 12:14:17**
 16 MR. NOVIKOFF: That day or
 17 subsequent?
 18 **Q. At any point?**
 19 MR. NOVIKOFF: Objection to the
 20 form of the question. 12:14:25
 21 MR. CONNOLLY: Objection.
 22 A. Yes, I did say that.
 23 **Q. When did you say that?**
 24 A. I believe I said it to Eddie
 25 Carter on the phone. 12:14:34

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1 Hesse
 2 **Q. When was that?**
 3 A. I don't remember the date.
 4 **Q. Why did you tell him that?**
 5 A. I was just angry at their actions. 12:14:40
 6 **Q. What actions?**
 7 A. Going to Civil Service, trying to
 8 get me in trouble. You know, when is enough
 9 enough.
 10 **Q. I want to play the audio just to 12:14:54**
 11 **identify that that is what you are referring**
 12 **to. This has been previously produced in this**
 13 **case.**
 14 (Audio played).
 15 **Do you recognize the voices in 12:15:24**
 16 **that conversation?**
 17 A. Yes.
 18 **Q. Who are those voices?**
 19 A. That would be Eddie Carter and
 20 myself. 12:15:33
 21 **Q. Did you ever call Mr. Fiorillo,**
 22 **Mr. Nofi and Mr. Snyder mutts?**
 23 A. Yes. I think in my second day of
 24 testimony I might have said that.
 25 **Q. Why did you call them mutts? 12:15:52**

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1 Hesse
 2 A. Because I didn't like them very
 3 much at that point.
 4 **Q. Who did you call them mutts to?**
 5 A. I don't recall. I don't know. 12:16:02
 6 **Q. I am going to play an audio again,**
 7 **previously produced, I want to identify the**
 8 **voices on the audio.**
 9 (Audio played.)
 10 **Q. Do you recognize the voices on 12:16:38**
 11 **that audio recording?**
 12 A. Was that me, it didn't really
 13 sound like me.
 14 MR. CONNOLLY: Can you play that
 15 again? 12:16:47
 16 A. You got to turn that up a little
 17 bit.
 18 **Q. Sure.**
 19 (Audio played.)
 20 **Q. Do you recognize the voices in 12:17:15**
 21 **that audio?**
 22 A. Yes, it was Eddie Carter.
 23 **Q. And who else?**
 24 A. I believe it was me.
 25 **Q. Any reason to believe it is not 12:17:30**

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1 Hesse
 2 **you?**
 3 A. No.
 4 **Q. Did you ever provide any**
 5 **references, good or bad, for any of the 12:17:34**
 6 **plaintiffs in the case subsequent to their**
 7 **employment at Ocean Beach?**
 8 MR. NOVIKOFF: Or neutral?
 9 **Q. Or neutral?**
 10 MR. CONNOLLY: Or did he respond 12:17:49
 11 to any request for references?
 12 **Q. Yes, or actively provide any**
 13 **references.**
 14 MR. CONNOLLY: Objection to the
 15 form either way. 12:17:59
 16 A. Boy that is confusing.
 17 Yes, I believe all my responses
 18 were neutral.
 19 **Q. How many responses did you provide**
 20 **on behalf of Frank Fiorillo? 12:18:06**
 21 A. Specifically maybe two.
 22 **Q. Do you recall what jobs they were**
 23 **for?**
 24 A. Southhampton either village or
 25 town. Maybe Riverhead. I don't specifically 12:18:22

Page 651

1 Hesse
2 remember.
3 **Q. Who did you speak with in**
4 **Southampton with respect to Mr. Fiorillo?**
5 A. I believe there was a sergeant 12:18:32
6 that I spoke to.
7 **Q. Do you remember his name?**
8 A. No.
9 **Q. Was it Scott Foster, does that**
10 **ring a bell? 12:18:38**
11 A. No.
12 **Q. What did you state to the sergeant**
13 **in Southampton about Mr. Fiorillo?**
14 A. I didn't state anything. He had
15 asked me about him and I said that I cannot 12:18:45
16 give him any information. I will only confirm
17 dates of employment. And he asked me I think
18 to put that in writing which I did, and I sent
19 that out to Southampton.
20 **Q. Did you tell him that Mr. Fiorillo 12:19:01**
21 **was terminated?**
22 A. I don't think I did, no.
23 **Q. Did you tell him that Mr. Fiorillo**
24 **was suing you?**
25 A. No. 12:19:11

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1 Hesse
2 **Q. Do you recall anything else that**
3 **you discussed with the sergeant from**
4 **Southampton?**
5 A. No. 12:19:19
6 **Q. Do you recall when that**
7 **conversation happened?**
8 A. No, I don't.
9 **Q. Do you recall whether it was days,**
10 **weeks, months, years after you terminated Mr. 12:19:28**
11 **Fiorillo?**
12 A. Definitely was not years. It
13 could have been a few weeks maybe. I don't
14 know. I don't recall.
15 **Q. Who at the Riverhead Police 12:19:39**
16 **Department did you speak with with respect to**
17 **Mr. Fiorillo?**
18 A. Like I said specifically Riverhead
19 I wasn't real positive about. For some reason
20 I feel that I had a message from the Chief of 12:19:54
21 the Riverhead Police Department that I
22 responded back to. I don't think I spoke to
23 him, it might have been a sergeant or a
24 lieutenant, I don't remember specifically.
25 **Q. Do you recall what you stated in 12:20:07**

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1 Hesse
2 **that conversation to the sergeant or**
3 **lieutenant who you spoke with?**
4 A. The conversations were very brief
5 and I stated dates of employment only, that is 12:20:16
6 it. I don't believe I put anything in writing
7 for them.
8 **Q. Did you tell them that Mr.**
9 **Fiorillo was terminated?**
10 A. No. 12:20:28
11 **Q. Did you explain to him why you**
12 **couldn't provide any additional information?**
13 A. No.
14 **Q. Did you explain to the person at**
15 **Southampton that you spoke with why you 12:20:35**
16 **wouldn't provide any additional information?**
17 A. I don't believe I ever did.
18 **Q. Did you ever speak to anyone or**
19 **communicate with anyone in the Northport Bay**
20 **Police Department with respect to Mr. 12:20:48**
21 **Fiorillo?**
22 A. Northport, no.
23 **Q. How about Huntington Bay Police**
24 **Department?**
25 A. Mr. Fiorillo, no. 12:20:54

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1 Hesse
2 **Q. How about Quogue Village Police**
3 **Department?**
4 A. No. Quogue, no.
5 **Q. How about anyone with respect to 12:21:04**
6 **the Village of Babylon?**
7 A. No.
8 **Q. Code Enforcement Officer?**
9 A. No.
10 **Q. Did you ever speak with anyone at 12:21:11**
11 **the Town of Brookhaven with respect to Mr.**
12 **Fiorillo?**
13 A. No.
14 **Q. Did you ever provide any**
15 **references or respond to any request for 12:21:24**
16 **references on behalf of Mr. Snyder?**
17 A. I don't believe I got any from Mr.
18 Snyder.
19 **Q. How about with respect to the John**
20 **T. Mather Memorial Hospital? 12:21:41**
21 A. I never got anything from them.
22 **Q. How about the Town of Brookhaven?**
23 A. I don't believe I got anything
24 from them either.
25 **Q. I am not asking whether you got 12:21:54**

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1 Hesse
2 **anything. I am asking whether you ever**
3 **communicated with anyone over there with**
4 **respect to Mr. Snyder?**
5 MR. NOVIKOFF: Objection to the 12:22:00
6 form.
7 **Q. With respect to a potential**
8 **employment opportunity for Mr. Snyder?**
9 MR. NOVIKOFF: Foundation.
10 Objection. 12:22:05
11 A. I understand what you are asking,
12 but when I say I have not gotten anything, I
13 don't think I received a phone call or any
14 documentation that said that he was applying
15 for the job. 12:22:15
16 **Q. How about the Suffolk County Park**
17 **Rangers?**
18 A. Suffolk County Park Rangers; no.
19 **Q. Did you ever provide any reference**
20 **or respond to any request for a reference on 12:22:26**
21 **of Ed Carter?**
22 A. I believe there was only one thing
23 that came up with Mr. Carter.
24 **Q. What came up with Mr. Carter?**
25 A. He called me to ask me if I would 12:22:37

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1 Hesse
2 give him a reference, it had something to do
3 with the town and Chief Greg Decanio from the
4 Islip Airport Police was going to call me in
5 reference to something to do with Eddie 12:22:57
6 Carter, and I told Eddie that I would only
7 tell them the truth of why he was let go.
8 **Q. Did you speak to Decanio?**
9 A. At some point I did, yes.
10 MR. NOVIKOFF: Can you spell that? 12:23:14
11 THE WITNESS: I have no idea.
12 MR. NOVIKOFF: D-E-C-A-N-I-O.
13 **Q. Did you speak with Decanio before**
14 **or after you spoke to Carter about Decanio?**
15 A. After. 12:23:35
16 **Q. So Ed didn't call you before and**
17 **say you need to speak with Decanio?**
18 A. I don't think so. He called me
19 first and said that Greg would be calling me
20 or to have me call Greg, and I talked to Greg 12:23:44
21 Decanio after I spoke to Ed Carter.
22 **Q. What did you tell Greg Decanio?**
23 A. I told Greg that Eddie Carter is a
24 good guy, that the reason why I had let him go
25 was because of his sleeping on duty. I said 12:24:00

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1 Hesse
2 that once again just like I reiterated before,
3 that he had just had twins, I think he over
4 exerted himself. I think he was doing too
5 much. That the best thing was to just move 12:24:13
6 on.
7 **Q. How come you told Decanio details**
8 **of why you terminated Carter, but didn't tell**
9 **for example the Southampton Police Department**
10 **details of your termination of Fiorillo? 12:24:26**
11 A. I know Greg, I am not going to
12 sugar coat it with Greg. Greg I know a long
13 time. We have done some training together,
14 and upon Eddie Carter's request I called him.
15 **Q. You called Decanio or he called 12:24:41**
16 **you?**
17 A. I believe I reached out to him. I
18 don't believe Greg ever called me.
19 **Q. Did you ever submit anything in**
20 **writing to Decanio? 12:24:52**
21 A. No.
22 **Q. Did you ever submit anything in**
23 **writing with respect to Ed Carter at all in**
24 **connection with a reference or in response to**
25 **a reference to anyone? 12:25:05**

Page 658

1 Hesse
2 A. No.
3 **Q. Did you ever provide any**
4 **references or respond to any reference**
5 **requests with respect to Kevin Lamm? 12:25:10**
6 A. None.
7 **Q. Never spoke with anyone or**
8 **communicated with anyone at the Lloyd Harbor**
9 **Police Department?**
10 A. I did get a phone call from the 12:25:19
11 Chief in Lloyd Harbor.
12 **Q. So when you said none it is not**
13 **correct?**
14 A. It is correct.
15 **Q. You never spoke with the chief? 12:25:26**
16 A. I spoke to the chief.
17 **Q. Tell me about your call, tell me**
18 **everything you recall in that discussion with**
19 **the chief from Lloyd Harbor?**
20 A. I think he was served with a 12:25:36
21 subpoena in reference to this case, and he
22 wanted some details about what was going on,
23 he didn't understand why. I said that I was
24 being sued for some wrongful termination. And
25 I said these were the names that were involved 12:25:53

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1 Hesse
2 with the suit, and he recognized I believe
3 Kevin Lamm's name because I think Kevin was on
4 their list for a full-time position. And they
5 gave it to somebody else, but that was 12:26:07
6 previous to me speaking to them.

7 **Q. Had you spoken to anyone at Lloyd
8 Harbor prior to them calling you about the
9 subpoena?**

10 A. No. 12:26:20

11 **Q. Did you tell them the reasons why
12 you were being sued other than for generically
13 wrongful termination?**

14 MR. NOVIKOFF: Objection to the
15 form. 12:26:27

16 A. No.

17 **Q. What else did you discuss with the
18 Lloyd Harbor Chief at that time?**

19 A. I forget what his name is, but it
20 turns out that he had his start in Ocean Beach 12:26:34
21 when he was a seasonal police officer. So we
22 talked about the good old days with Joe
23 Loeffler as chief and the things that went on
24 back in the day.

25 **Q. Anything else? 12:26:58**

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1 Hesse

2 A. No.

3 **Q. Did you speak to anyone at
4 Huntington Bay Police Department about Kevin
5 Lamm? 12:27:08**

6 A. No.

7 **Q. Did you speak to anyone in the
8 Ashroken Village Police Department?**

9 A. No.

10 **Q. How about Suffolk County Police 12:27:15
11 Department with respect to Kevin Lamm?**

12 A. I believe his investigator had
13 called me and wanted me to put something in
14 writing on why he no longer worked for the
15 department, and I told her the only thing that 12:27:29
16 I would do is confirm dates of employment.

17 **Q. Did you do that in writing?**

18 A. I don't believe I ever did, no.

19 **Q. How come?**

20 A. I don't think that is what she 12:27:38
21 wanted, so I wound up not doing it.

22 **Q. Did you ever submit anything in
23 writing to Suffolk County Police Department
24 with respect to Kevin Lamm?**

25 A. No. 12:27:51

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1 Hesse

2 **Q. How about the Southampton Village
3 Police Department, did you ever communicate
4 with them with respect to Kevin Lamm?**

5 A. No. 12:28:02

6 **Q. How about the Northport Village
7 Police Department, did you ever communicate
8 with them or anyone there with respect to
9 Kevin Lamm?**

10 A. No. 12:28:06

11 **Q. Did you ever communicate with
12 anyone at the Town of Islip Airport security
13 guard group with respect to Kevin Lamm?**

14 A. No.

15 **Q. How about Joe Nofi, did you ever 12:28:19
16 communicate with anyone with respect to a
17 reference or respond to a request for a
18 reference for Joe Nofi?**

19 A. Yes.

20 **Q. Who did you respond to or speak 12:28:28
21 with?**

22 A. I believe I spoke to an
23 investigator from the Collier County Sheriff's
24 Department in Florida.

25 **Q. Who did you speak with there? 12:28:42**

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1 Hesse

2 A. I don't recall his name.

3 **Q. How long was the conversation?**

4 A. A couple of minutes.

5 **Q. Tell me everything that you recall 12:28:51
6 that you spoke to him about?**

7 A. Well I was faxed a request to fill
8 out some kind of form for reference, and all I
9 did was confirm dates of employment and faxed
10 it back. 12:29:12

11 **Q. Did you fill in any other
12 sections?**

13 A. Specifically I don't recall if I
14 filled out anything else other than that.

15 **Q. Did you cross out any of the 12:29:23
16 sections?**

17 A. No.

18 **Q. Did you ever speak with anyone
19 from Collier County?**

20 A. After I responded back by fax 12:30:03
21 there was an investigator who did call me.

22 **Q. Do you recall that investigators
23 name?**

24 A. No.

25 **Q. What did you discuss with the 12:30:10**

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1 Hesse
 2 investigator?
 3 A. He had asked me if there was any
 4 other information that I could provide. I
 5 told him no, but I did advise him about the 12:30:17
 6 lawsuit against me.
 7 Q. Why did you advise him about the
 8 lawsuit against you?
 9 A. Because I thought it was pertinent
 10 to advise him. 12:30:29
 11 Q. Why?
 12 A. Because it is public information
 13 that I am being sued by this individual.
 14 Q. So is it your understanding that
 15 at the time you spoke with the investigator 12:30:40
 16 that it was public information that you were
 17 being sued?
 18 A. Yes, it was.
 19 Q. You actually had been served with
 20 a copy of the lawsuit? 12:30:51
 21 A. Yes.
 22 Q. Positive about that?
 23 A. I am pretty sure, yes.
 24 MR. GOODSTADT: Would you mark
 25 this document as Hesse Exhibit 28, 12:31:03

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1 Hesse
 2 Employment, Collier County Sheriff's
 3 Office, Employment Reference Prior
 4 Experience.
 5 (Hesse Exhibit 28, Employment, 12:31:04
 6 Collier County Sheriff's Office,
 7 Employment Reference Prior Experience,
 8 marked for identification, as of this
 9 date.)
 10 Q. I placed in front of Mr. Hesse 12:31:39
 11 what has been marked as Exhibit 28, a
 12 four-page exhibit bearing Bates CCSO 147
 13 through 150. I ask you to look at pages 149
 14 and 150?
 15 A. Okay. 12:32:02
 16 Q. Do you recall, turn to page 150,
 17 do you see a signature there?
 18 A. A signature.
 19 Q. On the bottom left, do you see
 20 that, it says Denado or Donohoe, do you see 12:32:14
 21 that signature?
 22 A. Yes, I do.
 23 Q. Does that refresh your
 24 recollection as to the name of the person that
 25 you spoke with? 12:32:29

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1 Hesse
 2 A. Yes.
 3 Q. Was it Donohoe?
 4 A. Yes.
 5 Q. He has a date of 9/15/2006, do you 12:32:31
 6 see that?
 7 A. Yes.
 8 MR. NOVIKOFF: Where is that?
 9 MR. GOODSTADT: On the right side
 10 next to Donohoe's signature; I am talking 12:32:42
 11 about 150.
 12 MR. NOVIKOFF: I don't see a copy
 13 on 150.
 14 MR. GOODSTADT: Let me see your
 15 copy. 12:32:54
 16 MR. NOVIKOFF: I see the comment,
 17 I don't see the signature. Okay, you got
 18 it.
 19 Q. You see it is dated 9/15/2006, do
 20 you see that? 12:33:09
 21 A. Yes.
 22 Q. Any reason to believe that that
 23 was not the date that you spoke with him?
 24 A. I don't know.
 25 Q. In fact 9/15/2006 was six months 12:33:15

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1 Hesse
 2 before you were actually sued; is that
 3 correct?
 4 MR. NOVIKOFF: Objection to the
 5 form of the question. To what you mean 12:33:25
 6 by actually sued.
 7 Q. Sued by Mr. Nofi?
 8 MR. CONNOLLY: Same objection.
 9 A. Sued or served with a notice of
 10 claim, I put them together. 12:33:36
 11 Q. Did you testify two times, two
 12 sessions ago that you know the difference
 13 between a lawsuit and a notice of claim?
 14 A. I might have put them together as
 15 far as being served a notice of claim as being 12:33:47
 16 sued.
 17 Q. Is a notice of claim publicly
 18 available information?
 19 A. I don't know.
 20 Q. So what did you mean before when 12:33:53
 21 you said I thought it was relevant because it
 22 was publicly available information?
 23 A. Everybody was knowing about it,
 24 everybody knew about it at that point.
 25 Q. Who is everybody? 12:34:02

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1 Hesse
 2 A. I don't know, it was on the news,
 3 it was everywhere.
 4 **Q. It is your testimony that it was**
 5 **on the news that by the time that you spoke 12:34:10**
 6 **with Mr. Donohoe that you were being sued by**
 7 **Joe Nofi; is that your testimony?**
 8 A. I knew it was coming at least.
 9 **Q. The question, sir, is at the time**
 10 **that you spoke with Mr. Donohoe was it on the 12:34:23**
 11 **news that you were being sued by Joe Nofi?**
 12 A. You know what, I just don't
 13 recall.
 14 **Q. And here you testified -- here you**
 15 **wrote or told him at least that you had 12:34:34**
 16 **dismissed Mr. Nofi; is that correct?**
 17 MR. CONNOLLY: Objection.
 18 MR. NOVIKOFF: Objection.
 19 A. No.
 20 **Q. If you look on page 149, he checks 12:34:41**
 21 **off dismissed?**
 22 MR. NOVIKOFF: Okay, 149.
 23 MR. GOODSTADT: Yes.
 24 MR. NOVIKOFF: I will stipulate
 25 that on 149 there is a check mark that 12:34:54

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1 Hesse
 2 says dismissed.
 3 **Q. Do you recall telling him that you**
 4 **dismissed Joe Nofi?**
 5 A. No. 12:35:00
 6 **Q. Then the explanation you see he**
 7 **writes, dismissed, applicant presently suing**
 8 **the Police Department for wrongful**
 9 **termination. Do you see that?**
 10 A. I do see that, yes. 12:35:08
 11 **Q. Do you recall telling him that you**
 12 **dismissed Mr. Nofi and that he is presently**
 13 **suing the Police Department for wrongful**
 14 **termination?**
 15 MR. NOVIKOFF: Objection. 12:35:20
 16 Compound.
 17 MR. CONNOLLY: Objection.
 18 A. That is not what I recall telling
 19 him.
 20 **Q. What do you recall telling him? 12:35:24**
 21 A. I told him that he no longer works
 22 for the department, and I will confirm dates
 23 of employment, and that he is suing the
 24 department for wrongful termination. But that
 25 is not the reason why he was terminated, that 12:35:35

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1 Hesse
 2 is not what I told him.
 3 MR. NOVIKOFF: You can add one
 4 more minute based upon what I am about to
 5 say. But I would think it would be 12:35:45
 6 logical that if one is no longer working
 7 at the department and one is suing for
 8 wrongful termination, that that person
 9 has been dismissed or otherwise
 10 constructively discharged. 12:35:58
 11 You can have one more minute based
 12 on the colloquy.
 13 MR. GOODSTADT: I don't know why
 14 you added the colloquy.
 15 MR. NOVIKOFF: I couldn't help 12:36:07
 16 myself.
 17 **Q. Did you ever speak with Nofi about**
 18 **your discussion with Donohoe or anyone at the**
 19 **Collier County Sheriff's office?**
 20 A. No. 12:36:20
 21 **Q. Did you ever let Nofi know that**
 22 **someone had reached out to you to request a**
 23 **reference on his before?**
 24 MR. NOVIKOFF: Objection.
 25 A. No. 12:36:32

Page 670

1 Hesse
 2 **Q. Did you ever submit anything in**
 3 **writing to Collier County with respect to**
 4 **Mr. Nofi?**
 5 A. I was sent a one-page reference, 12:36:45
 6 questionnaire, and I think I only put on there
 7 that I confirmed dates of employment.
 8 **Q. Did you ever speak with**
 9 **Mr. Donohoe other than for that one telephone**
 10 **conference that you already testified to? 12:37:12**
 11 A. No. I believe that was the only
 12 time.
 13 **Q. Did you ever speak to anyone else**
 14 **from Collier County on behalf of Mr. Nofi?**
 15 A. No. 12:37:23
 16 **Q. Did you ever speak to anyone in**
 17 **the Suffolk County Department of Health with**
 18 **respect to Joe Nofi?**
 19 A. Yes.
 20 **Q. When? 12:37:29**
 21 A. I don't know when.
 22 **Q. After his termination?**
 23 A. Yes.
 24 **Q. What did you speak to -- strike**
 25 **that. 12:37:38**

Page 671

1 Hesse
2 Do you know what year it was that
3 you spoke with that person?
4 A. No.
5 Q. Who was it that you spoke with? 12:37:41
6 A. It was a female, I believe -- I
7 don't know if they were in actual health
8 services or cigarette and tobacco section.
9 They wanted me to give a reference over the
10 phone which I didn't do, and I asked them if 12:38:03
11 they want a reference they would have to put
12 something on department letterhead and mail it
13 to me, and that was the extent of the
14 conversation.
15 Q. Have you ever given a reference 12:38:17
16 for any officers other than for the five
17 plaintiffs?
18 A. I may have over the years.
19 Q. Have you ever given any other
20 information other than for dates of 12:38:25
21 employment?
22 A. I may have.
23 Q. Did you provide Paul Trosko with a
24 reference?
25 A. I may have. 12:38:33

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1 Hesse
2 Q. Substantive reference other than
3 for dates of employment?
4 A. I may have.
5 Q. Was it a positive reference? 12:38:38
6 A. I would think so, yes.
7 Q. Did you ever have any
8 communications with anyone in the Suffolk
9 County Police Department with respect to Joe
10 Nofi? 12:38:49
11 A. In the Suffolk County Police
12 Department?
13 Q. Yes.
14 MR. NOVIKOFF: Independent of a
15 reference -- 12:38:54
16 MR. GOODSTADT: No, in connection
17 with a reference.
18 A. No.
19 Q. How about anyone in the
20 Easthampton Bay Constable Police Department? 12:39:02
21 A. No.
22 Q. How about the Easthampton Marine
23 Patrol?
24 A. No.
25 Q. How about the Suffolk County SPCA? 12:39:11

Page 673

1 Hesse
2 A. I think somebody called in from
3 there too, but no reference was given.
4 Q. Tell me everything you recall on
5 the conversation you had with the Suffolk 12:39:27
6 County SPCA with respect to Nofi?
7 A. I just vaguely remember something
8 about him applying for the -- whatever it is,
9 SPCA. But you know what, to tell you the
10 truth I don't think anybody called me directly 12:39:42
11 in reference to a reference.
12 Q. Did you ever provide a reference?
13 A. No.
14 Q. How about the Riverhead Police
15 Department, did you ever speak with anyone 12:39:57
16 there with respect to Joe Nofi?
17 A. I think somebody did call in.
18 Q. Tell me everything that you recall
19 about that conversation?
20 A. Just the fact that there was a 12:40:09
21 call. I think it was the same time with Frank
22 Fiorillo, and no reference was given.
23 Q. What did you tell the person?
24 A. You know, I believe there was a
25 message left for me to call the chief back and 12:40:20

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1 Hesse
2 when I -- I called back, I didn't get the
3 chief and I never got a call back. So I don't
4 think anything was ever said or done.
5 Q. So you never spoke with anyone? 12:40:31
6 A. No.
7 MR. CONNOLLY: Who is this?
8 Q. Riverhead Police Department.
9 A. I don't really recall any
10 conversations that took place with them. 12:40:41
11 Q. Now about the Northport Police
12 Department with respect to Joe Nofi?
13 A. No.
14 Q. How about the Smithtown Bay
15 Constable with respect to Joe Nofi? 12:40:53
16 A. No. Never.
17 Q. How about with the Shelter Island
18 Police with respect to Joe Nofi?
19 A. No.
20 Q. How about the Amtrak Police with 12:41:00
21 respect to Joe Nofi?
22 A. No, nothing.
23 Q. How about the Quogue Police with
24 respect to Joe Nofi?
25 A. Nothing. 12:41:11

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1 Hesse
2 **Q. How about the North Hempstead Bay**
3 **Constable with respect to Joe Nofi?**
4 A. Nothing.
5 **Q. How about the Babylon Bay 12:41:21**
6 **Constable?**
7 A. Nothing.
8 **Q. Any others that you can recall and**
9 **any other potential employers that you can**
10 **recall discussing Joe Nofi with? 12:41:30**
11 A. No.
12 **Q. How about Frank Fiorillo, do you**
13 **recall anybody else other than for the ones**
14 **that I asked you about?**
15 A. No. 12:41:40
16 **Q. How about with respect to Ed**
17 **Carter, do you recall anybody else other than**
18 **for Decanio?**
19 A. No.
20 **Q. How about Kevin Lamm, do you 12:41:48**
21 **recall speaking with anybody on behalf of**
22 **Kevin Lamm's application for a job?**
23 A. Other than Suffolk County Police
24 Department, no.
25 **Q. How about Tommy Snyder? 12:42:00**

Page 676

1 Hesse
2 A. Never.
3 **Q. I think we touched upon last time**
4 **your post on the blog. Do you know what I**
5 **mean when I say the blog? 12:42:21**
6 A. Yes.
7 **Q. Subsequently you provided**
8 **information in response to interrogatories**
9 **identifying this post that you made; is that**
10 **correct? 12:42:30**
11 A. Yes.
12 **Q. Is that all the posts that you**
13 **made, the ones that were in response to the**
14 **interrogatories?**
15 A. Yes. 12:42:36
16 MR. NOVIKOFF: How much time is
17 left.
18 THE VIDEOGRAPHER: Eight minutes.
19 MR. NOVIKOFF: Have you hit the
20 250 yet. 12:42:53
21 MR. GOODSTADT: I don't know.
22 MR. NOVIKOFF: Off the record.
23 THE VIDEOGRAPHER: The time is
24 12:44, we are off the record.
25 (Recess taken.) 12:43:09

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1 Hesse
2 THE VIDEOGRAPHER: The time is
3 12:45, we are on the record.
4 **Q. Mr. Hesse, you have posted on the**
5 **blog from your home computer; is that correct? 12:43:36**
6 A. Yes.
7 **Q. Do you know if anyone else has**
8 **posted on the blog from your home computer**
9 **other than for you?**
10 A. Not that I am aware of. 12:43:44
11 **Q. And the same thing about the Ocean**
12 **Beach Police Department computer, you posted**
13 **there on the blog?**
14 A. I may have, yes.
15 **Q. Are you aware of anybody else 12:43:53**
16 **posting on the blog from the Ocean Beach**
17 **Police Department computer other than for**
18 **yourself?**
19 A. Not yet.
20 **Q. What do you mean by not yet? 12:44:02**
21 A. I am assuming I will find out.
22 MR. GOODSTADT: I have nothing
23 further at this time.
24 MR. CONNOLLY: You can ask one
25 more, his responses are based upon his 12:44:13

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1 Hesse
2 recollection of blog entries.
3 MR. GOODSTADT: Okay.
4 MR. NOVIKOFF: Its up to Andrew if
5 he wants to ask that question. 12:44:26
6 MR. GOODSTADT: I am going to
7 leave his responses where they are and go
8 through what I need to on redirect if
9 necessary.
10 THE VIDEOGRAPHER: The time is 12:44:38
11 12:46, we are off the record.
12 (Time noted 12:46 p.m.)
13 (Lunch recess taken.)
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1 Hesse
2 AFTERNOON SESSION
3 (Time noted: 1:38 p.m.)
4 GEORGE HESSE, resumed and
5 testified as follows:
6 EXAMINATION BY (Cont'd.)
7 MR. NOVIKOFF:
8 THE VIDEOGRAPHER: The time is
9 1:38, we are on the record.
10 Q. Good afternoon, Mr. Hesse, how are you? 13:36:34
11 you?
12 A. Good.
13 Q. As you probably are aware I
14 represent all the Village defendants besides
15 you. As you are probably aware I represent 13:36:43
16 all the Village defendants except you, you are
17 aware of that?
18 A. Yes.
19 Q. Have you and I ever had
20 discussions about the substance or the merits 13:37:00
21 or lack thereof of the action that brings us
22 here today?
23 A. No.
24 Q. Have we ever exchanged written
25 communications? 13:37:08

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1 Hesse
2 A. No.
3 Q. I am going to ask you a series of
4 questions, I want to start off with asking you
5 some questions about the blog, but since Mr. 13:37:19
6 Goodstadt didn't ask you about any specific
7 blog entries, I am not going to. But let me
8 just ask you a few questions about the blog.
9 To the extent that you entered,
10 you made blog entries subsequent to the April 13:37:37
11 2nd meeting, and you understand what I am
12 talking about by the April 2nd meeting?
13 A. Yes.
14 Q. April 2, 2006?
15 A. Yes. 13:37:51
16 Q. Let me rephrase the question.
17 To the extent that you made blog
18 entries in the Schwartz Report subsequent to
19 April 2, 2006, were you doing that as part of
20 your official duties as Acting Chief of 13:38:03
21 Police?
22 A. No.
23 Q. With regard to any entries in the
24 Schwartz Report or any other blog concerning
25 Ocean Beach subsequent to April 2, 2006 were 13:38:14

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1 Hesse
2 you doing it in any capacity associated with
3 your position as Acting Chief of Police?
4 MR. GOODSTADT: Objection.
5 A. No. 13:38:25
6 Q. Did you advise Mayor Rogers while
7 she was still mayor but subsequent to April 2,
8 2006 that you were entering blog entries?
9 A. No.
10 Q. Did you advise Trustee Loeffler 13:38:37
11 subsequent to April 2nd and while he was still
12 a trustee member that you were entering blog
13 entries on the Schwartz Report concerning
14 Ocean Beach issues?
15 A. No. 13:38:55
16 Q. To your knowledge was anyone, to
17 your knowledge was any trustee ever aware
18 between April 2nd and the time that Mayor
19 Loeffler was -- withdrawn.
20 Between April 2nd and the time 13:39:12
21 that Mayor Loeffler was started as mayor in
22 the summer of 2006 are you aware of any
23 trustee that was aware that you were blogging
24 on the Schwartz Report concerning Ocean Beach?
25 MR. GOODSTADT: Objection. 13:39:28

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1 Hesse
2 A. I was not aware of anybody that
3 would know, no.
4 Q. You certainly didn't tell anyone,
5 did you? 13:39:33
6 A. No.
7 Q. Well, since there is an objection
8 let me rephrase the question.
9 Did you tell any trustee between
10 April 2nd and the date that Mayor Loeffler 13:39:40
11 started as mayor that you were blogging on the
12 Schwartz Report concerning Ocean Beach?
13 A. No.
14 Q. Prior to receiving the -- prior to
15 being served with the complaint, the Federal 13:39:57
16 court complaint in this matter did you ever
17 advise mayor -- former Mayor Rogers that you
18 were blogging on the Schwartz Report
19 concerning Ocean Beach?
20 A. No. 13:40:10
21 Q. Did you ever advise Mayor Loeffler
22 prior to serving -- getting served with the
23 summons and complaint in the action that you
24 were blogging on the Schwartz Report
25 concerning Ocean Beach? 13:40:26

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1 Hesse
2 A. No.
3 Q. Did you advise any trustee member
4 prior to the time that you were served with
5 the summons and complaint that you were 13:40:31
6 blogging on the Schwartz Report concerning
7 Ocean Beach?
8 A. No.
9 Q. Let's look at the exhibit that Mr.
10 Goodstadt showed you, Exhibit 28, Deposition 13:41:09
11 Exhibit 28, CCSO 147 through CCSO 150.
12 Specifically let's look at 149 and 150?
13 A. Yes.
14 Q. Did you draft this document?
15 A. No. 13:41:34
16 Q. Prior to today have you seen this
17 document?
18 A. No.
19 Q. So let's be more specific, the
20 line: Rate the applicant in the following 13:41:44
21 areas. You didn't draw that line; right?
22 A. No.
23 Q. Now, Mr. Goodstadt asked you a
24 question as to when you did this, when you
25 spoke -- when you spoke to the investigator, 13:42:02

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1 Hesse
2 when you filled out whatever form you
3 indicated that you filled out. Do you recall
4 those questions?
5 A. Yes. 13:42:09
6 Q. Now, the date of this document,
7 150, is 9/15/2006. Would you agree with me
8 that given the fact that the Federal lawsuit
9 was not filed until March 2007, that you had
10 your conversation with Collier County prior to 13:42:30
11 the filing of the Federal lawsuit?
12 A. Yes.
13 Q. And if I represented to you that
14 the date of the notice of claim was on or
15 about June 30, 2006, would you agree with me 13:42:43
16 that based upon that representation you would
17 have had a conversation with Collier County
18 after becoming aware of the notice of claim?
19 A. Yes.
20 Q. In fact the notice of claim was in 13:42:56
21 part a claim that the five plaintiffs were
22 unlawfully terminated; correct?
23 MR. GOODSTADT: Objection.
24 A. Yes.
25 Q. What was your -- what is your 13:43:04

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1 Hesse
2 knowledge as you sit here today as to what
3 claims if any any of the plaintiffs were
4 making in their respective notice of claims?
5 A. It was my belief that it was for 13:43:14
6 some kind of illegal termination of sorts, and
7 then many other accusations that just didn't
8 make sense.
9 Q. A notice of claim is filed with
10 the village; correct? 13:43:36
11 A. Yes.
12 Q. And a notice of claim is filed
13 specifically with the clerk of the village; is
14 that correct?
15 MR. GOODSTADT: Objection. 13:43:43
16 A. Yes.
17 Q. To your knowledge is a notice of
18 claim a document that an individual could file
19 a FOIA request to ascertain?
20 MR. GOODSTADT: Objection. 13:43:56
21 MR. CONNOLLY: Objection.
22 A. You know, I believe they can.
23 Q. Are you aware of any law that
24 requires a notice of claim be kept
25 confidential and hidden from the public? 13:44:08

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1 Hesse
2 A. Not that I am aware of.
3 MR. GOODSTADT: Objection.
4 Q. Now, let's look at page 150?
5 A. Uh-hum. 13:44:40
6 Q. Whoever wrote this document states
7 under the line: Please provide any additional
8 information that you feel is important.
9 And they write as follows: Deputy
10 Chief Hesse states quote, his Police 13:44:52
11 Department is being sued by the applicant for
12 quote wrongful (job) termination close quote.
13 Do you see that?
14 A. Yes.
15 Q. Did you state to whomever you 13:45:07
16 spoke to at Collier County that the Police
17 Department was being sued?
18 A. Yes.
19 Q. Did you state to the investigator
20 or whomever you spoke to at Collier County 13:45:17
21 that Mr. Nofi was suing the department for
22 wrongful termination?
23 A. Yes.
24 Q. Whoever wrote this document then
25 goes on to say: Chief Hesse states that he 13:45:28

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1 Hesse
2 cannot comment on the applicant's reason he
3 was let go or his job history at the PD due to
4 the ongoing lawsuit.
5 Do you see that? 13:45:40
6 A. Yes.
7 Q. Now, did you tell whomever you
8 spoke to at Collier County that you can't
9 comment on the applicant's reasons as to why
10 he was let go? 13:45:51
11 A. Yes.
12 Q. Did you tell whomever you spoke to
13 at Collier County that you can't comment on
14 the applicant's job history at the Police
15 Department? 13:46:00
16 A. Yes.
17 Q. And did you tell whomever you
18 spoke to at Collier County that you could not
19 discuss the reasons Mr. Nofi was let go or his
20 job history due to the ongoing lawsuit? 13:46:12
21 A. Yes.
22 Q. Now, did you speak with any lawyer
23 prior to giving this information to Collier
24 County as to what you could say with regard to
25 a reference request? 13:46:28

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1 Hesse
2 A. No.
3 Q. Did you speak with Mayor Loeffler?
4 A. No.
5 Q. Did you speak with former Mayor 13:46:33
6 Rogers?
7 A. No.
8 Q. Did you speak with any trustee?
9 A. No.
10 Q. Now, you indicated in response to 13:46:38
11 Mr. Goodstadt's question that in your opinion
12 you gave neutral references; is that correct?
13 A. Uh-hum.
14 MR. GOODSTADT: Objection. His
15 testimony is what it is. 13:46:50
16 MR. NOVIKOFF: Okay.
17 Q. Let me state this. In your
18 opinion the references that you gave with
19 regard -- putting aside Mr. Carter for the
20 time being, the references that you gave with 13:46:59
21 regard to the other four plaintiffs, to the
22 extent that you gave any references -- you
23 know, withdrawn, reference is a bad word.
24 To the extent that you had any
25 communications with regard to any prospective 13:47:11

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1 Hesse
2 employers of the plaintiffs with the exception
3 of Mr. Carter, would you characterize your
4 comments as being neutral?
5 MR. GOODSTADT: Objection. 13:47:22
6 A. Yes.
7 Q. Sir, if in fact you wanted to give
8 a negative reference with regard to for
9 example to Frank Fiorillo, what would you have
10 said to a prospective employer? 13:47:31
11 MR. GOODSTADT: Objection.
12 A. I would have said that he was
13 insubordinate and I would have gave him -- I
14 probably would have given him an example or
15 two. 13:47:44
16 Q. The same thing with regard to Mr.
17 Nofi, if you were to give a negative reference
18 with regard to Mr. Nofi what would you have
19 said?
20 MR. GOODSTADT: Objection. 13:47:55
21 A. I would have said that, like I
22 stated earlier, he had poor work performance,
23 poor appearance and so on, along those lines.
24 Q. Let's stay with Mr. Nofi for a
25 minute. To the extent and I don't recall your 13:48:09

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1 Hesse
2 testimony, I am not going to try to repeat it
3 here, to the extent that you gave any
4 references at all with regard to Mr. Nofi
5 subsequent to April 2, 2006, did you give that 13:48:19
6 type of a negative reference?
7 A. No.
8 MR. CONNOLLY: Objection.
9 Q. Did you give any type of negative
10 reference? 13:48:31
11 A. No.
12 Q. Same question with regard to Mr.
13 Fiorillo?
14 MR. GOODSTADT: Objection.
15 A. No. 13:48:37
16 Q. With regard to Mr. Snyder, to the
17 extent that you gave any, made any
18 communications with any prospective employers
19 of Mr. Snyder after April 2, 2006, if you were
20 going to give a negative reference what would 13:48:51
21 you have said?
22 MR. GOODSTADT: Objection.
23 A. I would have said that he had
24 somewhat of a poor attitude. His work
25 performance was slipping. That tours that he 13:49:01

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1 Hesse
2 was scheduled for he was not showing up for.
3 **Q. Did you give that type of -- did**
4 **you communicate those opinions to any**
5 **prospective employer to the best of your 13:49:13**
6 **recollection?**
7 A. No.
8 **Q. How about with regard to Mr. Lamm,**
9 **to the extent that you had any communications**
10 **with a prospective employer after April 2, 13:49:21**
11 **2006 and you were inclined to give a negative**
12 **reference, what would that negative have been?**
13 MR. GOODSTADT: Objection.
14 A. I would have said that he had a
15 poor attitude, shows no discretion, generally 13:49:36
16 angry, and insubordinate.
17 **Q. Did you make -- did you**
18 **communicate those opinions to any prospective**
19 **employer that you were aware of?**
20 A. No. 13:49:54
21 **Q. So let's go back to what Mr.**
22 **Goodstadt brought out from you during his**
23 **testimony. You acknowledged, and correct me**
24 **if I am wrong, that at least that on those**
25 **tapes -- withdrawn. 13:50:06**

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1 Hesse
2 **You acknowledged on those tapes**
3 **that Mr. Goodstadt played for you, for us in**
4 **the morning, that you did make statements**
5 **concerning Lamm, Fiorillo and Nofi's law 13:50:17**
6 **enforcement careers; correct?**
7 A. Yes.
8 **Q. And in fact in sum or substance**
9 **you had said to whoever you were speaking to**
10 **that those -- that their law enforcement 13:50:31**
11 **careers were over; is that correct?**
12 A. Yes.
13 **Q. What did you mean by that as you**
14 **heard it on the tape?**
15 MR. GOODSTADT: Objection. 13:50:40
16 A. I was angry.
17 MR. CONNOLLY: Objection.
18 **Q. I understand.**
19 A. I was angry at the things, at the
20 acquisitions that they were making. But as 13:50:47
21 far as their law enforcement careers are over,
22 they are just going to remain where they are
23 and that is what I hoped. And really that was
24 it. There was no threats made. I didn't do
25 anything that would hurt them. I never said 13:51:00

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1 Hesse
2 anything about them to any prospective
3 employer. So, you know, I was just angry at
4 that moment.
5 MR. GOODSTADT: Do we have an 13:51:12
6 agreement that I don't have to move to
7 strike anything?
8 MR. NOVIKOFF: Yes, until such
9 time as you need to.
10 MR. GOODSTADT: Well it is 13:51:21
11 preserved. I don't have to do it today.
12 MR. NOVIKOFF: Yes.
13 **Q. To the extent Mr. Goodstadt**
14 **believes that you were threatening to do**
15 **something in those tapes with regard to their 13:51:31**
16 **law enforcement careers, did you take any**
17 **action in furtherance of that?**
18 MR. CONNOLLY: Objection.
19 MR. GOODSTADT: Objection.
20 A. No. 13:51:43
21 **Q. Was it your intent on those tapes**
22 **to communicate that you were going to**
23 **affirmatively take any action to harm their**
24 **careers?**
25 A. No. 13:51:55

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1 Hesse
2 **Q. Now, Mr. Goodstadt inquired with**
3 **you with regard to various eyewitness**
4 **statements that had been filed with the**
5 **village concerning the Halloween incident, do 13:52:42**
6 **you recall that?**
7 A. Yes.
8 **Q. I think he said, he asked you did**
9 **you think it was strange that no one who put**
10 **in an eyewitness statement made reference to a 13:52:53**
11 **pool cue; correct?**
12 A. Yes.
13 **Q. I don't recall what your answer is**
14 **and frankly for purposes of my question I**
15 **don't care what your answer was. Let's look 13:53:03**
16 **at the Exhibit 14?**
17 MR. GOODSTADT: Which is Exhibit
18 14?
19 **Q. This is the memo from Steve Jaeger**
20 **to Ed Paradiso? 13:53:34**
21 MR. CONNOLLY: You are going to
22 have to give him a copy.
23 MR. NOVIKOFF: I thought the
24 reporter would have brought it. So we
25 are continuing. 13:53:54

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1 Hesse
 2 MR. GOODSTADT: I don't know.
 3 MR. NOVIKOFF: Do you have a clean
 4 copy?
 5 MR. CONNOLLY: It has my 13:54:02
 6 handwriting on it.
 7 MR. NOVIKOFF: It says Exhibit 14.
 8 Can you show Mr. Goodstadt, I just --
 9 MR. GOODSTADT: That is fine.
 10 **Q. I am going to show you what I 13:54:17**
 11 **represent to be marked as Exhibit 14, I will**
 12 **note for the record that Mr. -- your counsel's**
 13 **handwriting is on the bottom of that page**
 14 **indicating that it is Exhibit 14.**
 15 **Now, would you characterize this 13:54:29**
 16 **as an eyewitness statement, or would you**
 17 **characterize this as a complaint to the chief**
 18 **concerning an action taken against Gary**
 19 **Bosetti by the chief?**
 20 A. I took it as a complaint filed to 13:54:43
 21 the chief about the actions that the chief
 22 took against Gary Bosetti.
 23 **Q. Does Mr. Jaeger in this letter**
 24 **indicate at all that he was a witness to the**
 25 **entirety of the altercation involving those 13:54:56**

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1 Hesse
 2 **three individuals and Mr. Gary Bosetti?**
 3 MR. GOODSTADT: Objection.
 4 A. No.
 5 **Q. Does he indicate anywhere in this 13:55:04**
 6 **letter that he was an eyewitness to anything**
 7 **involving Gary Bosetti fighting these -- any**
 8 **individual?**
 9 MR. GOODSTADT: Objection.
 10 A. No. 13:55:15
 11 **Q. Now let's look at Exhibit 16?**
 12 MR. CONNOLLY: Which we are going
 13 to have the same problem.
 14 MR. NOVIKOFF: Yes.
 15 **Q. It is the Doug Wyckoff, 3165 and 13:55:35**
 16 **3166.**
 17 MR. GOODSTADT: Looks good to me.
 18 **Q. I am going to ask you to read,**
 19 **same representation that what I am showing you**
 20 **is 3165 and 3166. I represent that it was 13:56:04**
 21 **marked as Exhibit 16 at your deposition**
 22 **earlier and your counsel is handing you a copy**
 23 **of his.**
 24 MR. CONNOLLY: Which again notes
 25 that it is Exhibit 16 in my handwriting? 13:56:15

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1 Hesse
 2 **Q. Now I am just going to ask you to**
 3 **read Mr. Wyckoff's statement to yourself, on**
 4 **the front and then it continues on the back.**
 5 **Then I am going to ask you a series of 13:56:24**
 6 **questions about that.**
 7 A. Okay.
 8 **Q. Did Mr. Wyckoff indicate in his**
 9 **statement that he was a witness from the**
 10 **entire altercation involving Gary Bosetti from 13:57:22**
 11 **the moment it started to the moment it ended?**
 12 MR. GOODSTADT: Objection.
 13 A. With Gary himself -- not entirely,
 14 no.
 15 **Q. In fact am I correct in my reading 13:57:34**
 16 **of this that at some point in time Mr. Wyckoff**
 17 **said that being that he was a bouncer for many**
 18 **years he went and grabbed one of the alleged**
 19 **victims and forced him out the front door;**
 20 **yes? 13:57:52**
 21 A. Yes.
 22 **Q. So I am correct in reading, that**
 23 **is what I read?**
 24 A. Yes.
 25 MR. GOODSTADT: Objection. 13:57:59

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1 Hesse
 2 **Q. Would you agree then that had he**
 3 **been taking one of the individuals out the**
 4 **front door while the altercation was still**
 5 **going on involving Gary Bosetti that he might 13:58:07**
 6 **not have seen Mr. Bosetti using a pool cue?**
 7 MR. GOODSTADT: Objection.
 8 A. Yes.
 9 **Q. Did Mr. Bosetti ever deny ever**
 10 **using a pool cue? 13:58:21**
 11 A. No.
 12 **Q. And in fact if I recall correctly**
 13 **in his witness statement he acknowledged**
 14 **specifically that he hit Mr. Schalik, or he**
 15 **hit somebody with a pool cue; right? 13:58:28**
 16 A. Yes.
 17 **Q. Now, let's look at Exhibit 15, and**
 18 **if Mr. Connolly doesn't mind I would like to**
 19 **have him show to the extent that there is no**
 20 **extraneous handwriting other than the exhibit 13:58:44**
 21 **number.**
 22 **Again I represent that Exhibit 15,**
 23 **what I am handing you is document 3181 through**
 24 **3182?**
 25 A. Correct. 13:59:04

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1 Hesse
2 **Q. And it was marked as Exhibit 15 by**
3 **Mr. Goodstadt when he was questioning you. I**
4 **am going to ask you to read this one and then**
5 **tell me when you are done? 13:59:15**
6 A. Okay.
7 MR. CONNOLLY: Just let me see it
8 for a second. Okay.
9 **Q. Now, I have showed you Exhibit 15,**
10 **and whose signature -- whose eyewitness 14:01:20**
11 **statement is that; that is Jeannie Jaeger; is**
12 **that correct?**
13 A. Yes.
14 **Q. Does Ms. Jaeger in this eyewitness**
15 **statement or this statement indicate that at 14:01:29**
16 **some point in time she went into the woman's**
17 **bathroom after the altercation began?**
18 MR. GOODSTADT: Objection.
19 A. Yes.
20 **Q. Why don't you tell the court what 14:01:41**
21 **Ms. Jaeger is saying with regard to when she**
22 **went back into the bathroom?**
23 A. You want me to read it?
24 **Q. Yes, please.**
25 MR. GOODSTADT: Objection. 14:01:50

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1 Hesse
2 A. "The man then lunged towards Gary
3 and fell into the corner with the parking
4 meter, taking the girl dressed as a cop with
5 him. They were both down and not moving when 14:02:08
6 I grabbed Elyse and ducked into the ladies
7 room."
8 **Q. Would you agree with me that if**
9 **Ms. Jaeger was in the ladies room at the time**
10 **that Mr. Bosetti had used the pool cue and the 14:02:23**
11 **bathroom door was closed, she could not have**
12 **seen Mr. Bosetti use the pool cue?**
13 MR. GOODSTADT: Objection.
14 A. Yes.
15 **Q. Would you agree with me that if 14:02:33**
16 **she put in this statement that she put, that**
17 **she saw Mr. Bosetti use a pool cue when in**
18 **fact she didn't, she would be committing a**
19 **perjurious act?**
20 A. Yes, she would be lying, yes. 14:02:45
21 MR. GOODSTADT: Objection.
22 **Q. Does it seem strange to you that**
23 **based upon the fact that Ms. Jaeger went into**
24 **the ladies room at some point in time during**
25 **the altercation and she didn't put down in her 14:03:01**

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1 Hesse
2 **statement that she saw Mr. Bosetti use a pool**
3 **cue?**
4 A. No, I don't find it strange.
5 **Q. The same thing with Mr. Wyckoff, 14:03:12**
6 **given the fact that Mr. Wyckoff indicated that**
7 **at some point in time in the statement he took**
8 **one of the alleged victims and forced him out**
9 **of the bar, does it seem strange to you that**
10 **Mr. Wyckoff didn't see Mr. Bosetti use a pool 14:03:27**
11 **cue?**
12 A. No, I don't find it strange.
13 **Q. In fact if Mr. Wyckoff said he saw**
14 **Mr. Bosetti use a pool cue when in fact he**
15 **didn't, Mr. Wyckoff would be committing a 14:03:39**
16 **perjurious act; is that correct?**
17 A. Yes, he would be lying.
18 **Q. Let's look at Mr. Steven Jaeger.**
19 **Now if Mr. Steve Jaeger indicated in his**
20 **letter of complaint to Chief Paradiso that he 14:03:51**
21 **knew that Gary Bosetti used a pool cue when in**
22 **fact he never was an eyewitness to that, he**
23 **would be lying as well?**
24 A. Correct.
25 **Q. So to the extent that Mr. 14:04:06**

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1 Hesse
2 **Goodstadt showed you this letter of complaint**
3 **as a purported eyewitness statement, does it**
4 **seem strange to you now -- does it seem**
5 **strange to you that Mr. Budd Jaeger made no 14:04:18**
6 **reference to Gary Bosetti using a pool cue?**
7 MR. GOODSTADT: Objection.
8 A. No. At this time, no.
9 **Q. Let's look at Exhibit 19, and this**
10 **one I think he showed you today? 14:04:41**
11 A. Yes, it is somewhere in here.
12 **Q. Now, Exhibit 19 is a statement of**
13 **Elyse Miller; is that correct?**
14 A. Yes.
15 **Q. At least it purports to be a 14:04:57**
16 **statement of Elyse Miller?**
17 A. Yes.
18 **Q. Mr. Goodstadt asked you a series**
19 **of questions about that, do you recall?**
20 A. Yes. 14:05:03
21 **Q. Let's go to the third page of this**
22 **document, 3171?**
23 A. Okay.
24 **Q. Actually it starts, the part I**
25 **want to focus on starts on 3170? 14:05:17**

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1 Hesse
2 A. Yes.
3 Q. I am going to read it into the
4 record: "At that point the guy in the orange
5 jump suit reached for Jean's throat, he was 14:05:28
6 going to choke her. Jean was trapped. The
7 wall to the men's room was behind her and
8 there was no place to move in that little
9 bathroom waiting area. I started to grab for
10 his wrist trying to get him off, but 14:05:45
11 thankfully Gary appeared and pushed him to the
12 ground and away from Jean. The guy fell down
13 bringing Gary and the girl with him. Suddenly
14 another guy appeared, I believe he had on a
15 gray shirt. Gary told the guy that he was a 14:06:01
16 cop, telling him to step back, get out of the
17 way and to stay out of it. But the guy said
18 he didn't care who Gary was and he went to
19 kick Gary in the head. Gary blocked the kick
20 and Jean and I were pushed further back in the 14:06:16
21 tight space now trapped. Jean pulled me into
22 the ladies room for safety."
23 Do you see that?
24 A. Yes.
25 Q. Let's assume, I wasn't there, you 14:06:26

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1 Hesse
2 were not there, no one in this room was there.
3 The only people -- well, actually none of the
4 police officers were there.
5 Let's assume for the purpose of 14:06:35
6 this question that Gary Bosetti used the pool
7 cue while Elyse Miller was in the bathroom,
8 and let's assume that the door was closed.
9 Could Elyse Miller have seen Gary Bosetti use
10 the pool cue while she was in the bathroom 14:06:52
11 with the door closed?
12 MR. GOODSTADT: Objection.
13 A. No.
14 Q. Let's assume for the purpose of my
15 question that in fact Gary Bosetti used the 14:06:59
16 pool cue while Elyse Miller was in the
17 bathroom with the door closed. Would it be
18 strange to you that Elyse Miller didn't put
19 down in her statement that Gary Bosetti had
20 used a pool cue? 14:07:13
21 A. No.
22 Q. In fact if Gary Bosetti had used
23 a pool cue -- I'm sorry, and in fact had Elyse
24 Miller put down in her statement that Gary
25 Bosetti had used a pool cue, when in fact she 14:07:22

Page 705

1 Hesse
2 didn't see him use a pool cue, that would have
3 been a perjurious statement; correct?
4 A. Yes. She would have been lying.
5 MR. GOODSTADT: You don't want to 14:07:34
6 discuss the part when she opens the door
7 and discusses the rest of it?
8 MR. NOVIKOFF: No. You may.
9 Q. Now let's look at Exhibit 20,
10 because you know these things happen in the 14:07:51
11 blink of an eye.
12 MR. GOODSTADT: Recollections are
13 sketchy, right, they become snapshots.
14 MR. NOVIKOFF: They do, especially
15 if there is alcohol involved. 14:08:02
16 MR. GOODSTADT: Read the statement
17 yourself.
18 Q. You know what, before we get to
19 that, you are looking at an exhibit with one
20 of the alleged victims that Mr. Goodstadt 14:08:12
21 showed you; right?
22 A. Yes.
23 Q. What exhibit number was that?
24 A. 17.
25 Q. Is there a picture there with a 14:08:17

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1 Hesse
2 neck brace on?
3 A. Yes.
4 Q. Is that standard procedure for a
5 victim that you believe have injuries when you 14:08:23
6 want to move them to put them in a neck brace?
7 MR. GOODSTADT: Objection.
8 A. No.
9 Q. Do you think he went to the bar
10 with a neck brace? 14:08:33
11 A. No.
12 Q. So at some point in time after he
13 left the bar that night somebody put him in a
14 neck brace?
15 A. At some point, yes. 14:08:40
16 Q. Do you know who did?
17 A. I believe one of the EMTs did.
18 Q. Let's go back to Exhibit 20, Ian
19 Levine, and read Mr. Levine's statement to
20 yourself and then tell me when you are done? 14:08:52
21 A. I need a magnifying glass.
22 Okay.
23 Q. Now, Mr. Levine makes no mention
24 of the fact that Gary Bosetti used a pool cue
25 at any time? 14:10:46

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1 Hesse
2 A. No, he did not.
3 Q. Did Mr. Levine indicate in this
4 thing that he saw the entirety of the
5 altercation involving Mr. Gary Bosetti? 14:10:52
6 MR. GOODSTADT: Objection.
7 A. No.
8 Q. In fact isn't it true that at
9 least in this statement Mr. Levine said at
10 some point in time after the altercation 14:11:06
11 started he used his cell phone to make a call
12 to the police?
13 MR. GOODSTADT: Objection.
14 A. Yes, he did.
15 MR. NOVIKOFF: Leading? 14:11:15
16 MR. GOODSTADT: The document
17 speaks for itself.
18 MR. CONNOLLY: And going forward
19 so we don't have any talk overs and drive
20 the reporter crazy, wait a second or two 14:11:22
21 to allow for any objections.
22 Q. So now hypothetically, sir, if Mr.
23 Levine took his eyes away from the altercation
24 while he went to get his cell phone, dial the
25 number for the police, talked to whomever he 14:11:37

Page 708

1 Hesse
2 talked to on the police, hang up the cell
3 phone and put the cell phone back wherever it
4 was, had he taken his eyes off the altercation
5 he may not have seen Mr. Bosetti use a pool 14:11:58
6 cue; correct?
7 A. That is correct.
8 MR. GOODSTADT: Objection.
9 Q. Hypothetically?
10 A. Yes. 14:11:58
11 Q. And you would agree with me then
12 that if Mr. Levine, had he not seen Gary
13 Bosetti use a pool cue, put in the statement
14 that he in fact did use a pool cue, that would
15 have been a perjurious statement? 14:12:10
16 A. Yes.
17 Q. Now based upon your review of Mr.
18 Levine's statement and the fact that he used a
19 cell phone to call the police at some point in
20 time after the altercation started, does it 14:12:21
21 seem strange that he didn't see Gary Bosetti
22 use a pool cue?
23 A. No.
24 Q. Now, a whole lot of questions
25 about a cover up involving the Halloween 14:12:36

Page 709

1 Hesse
2 incident. Do you recall questions about that?
3 A. Yes.
4 Q. Have you read the complaint in
5 this matter? 14:12:42
6 A. Yes.
7 Q. There is a whole lot of -- in fact
8 there is about 26 allegations I think about
9 you covering up or the Ocean Beach Police
10 Department covering up something with regard 14:12:53
11 to the Halloween incident; correct?
12 A. Yes.
13 Q. And you had rumors that some of
14 the plaintiffs here thought that there was a
15 cover up; correct? 14:13:01
16 A. Yes.
17 Q. Let me ask you these questions,
18 did you cover up anything involving the
19 Halloween incident?
20 A. Absolutely not. 14:13:06
21 Q. Did Chief Paradiso cover up
22 anything?
23 A. Absolutely not.
24 Q. To your knowledge did Mr. Cherry
25 cover up anything? 14:13:13

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1 Hesse
2 A. Absolutely not.
3 Q. To your knowledge did any trustee
4 member instruct you to cover up anything?
5 A. No. 14:13:19
6 Q. To your knowledge did Mayor Rogers
7 instruct you to cover up anything involving
8 the Halloween incident?
9 A. No.
10 Q. To your knowledge was the issue of 14:13:25
11 covering up anything involving the Halloween
12 incident ever mentioned between you and any
13 person higher in authority than you?
14 A. No.
15 MR. GOODSTADT: Objection. 14:13:44
16 Q. Did the issue of -- withdrawn.
17 At some point in time there were
18 arrests made with regard to the Halloween
19 incident; is that correct?
20 A. Yes. 14:13:57
21 Q. Was Gary Bosetti arrested?
22 A. No.
23 Q. Who was arrested?
24 A. Brian Van Koot and Christopher
25 Schalik. 14:14:05

Page 711

1 Hesse
2 **Q. And what was Brian Van Koot**
3 **arrested for?**
4 A. Harassment on Jean Jaeger for
5 choking her, and assault third on Gary 14:14:11
6 Bosetti.
7 **Q. What was the -- who was the other**
8 **individual?**
9 A. Christopher Schalik.
10 **Q. So we have Van Koot and Schalik? 14:14:18**
11 A. Yes.
12 **Q. What was Mr. Schalik arrested for?**
13 A. Assault on Gary Bosetti.
14 **Q. Now, an arrest is a serious**
15 **matter; correct? 14:14:35**
16 MR. GOODSTADT: Objection.
17 A. Yes.
18 **Q. Just could you tell I guess the**
19 **jury may one day, hopefully not, but maybe one**
20 **day see this videotape with your deposition, 14:14:43**
21 **could you tell the jury what takes place after**
22 **someone is arrested?**
23 MR. CONNOLLY: Objection.
24 MR. GOODSTADT: Objection.
25 **Q. In terms of the process and the 14:14:58**

Page 712

1 Hesse
2 **procedure?**
3 A. There is a process.
4 **Q. Okay.**
5 A. Information that we have to get 14:15:01
6 from the defendant, pedigree information, past
7 arrest information. There are fingerprints
8 taken, pictures taken, and then subsequently
9 charges are drawn up and then therefore they
10 are arraigned on those charges. 14:15:16
11 **Q. Who draws up the charges?**
12 A. We do.
13 **Q. When you say they are arraigned,**
14 **what do you mean?**
15 A. They go before the judge and plead 14:15:25
16 guilty or not guilty.
17 **Q. Does the Village of Ocean Beach**
18 **have their own type of District Attorney's**
19 **office?**
20 A. We have our own village court. 14:15:37
21 **Q. Okay.**
22 A. And we have district attorneys
23 appointed by the District Attorney's office of
24 Suffolk County to prosecute.
25 **Q. Now is it up to the -- based upon 14:15:46**

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1 Hesse
2 **your experience at Ocean Beach -- is it up to**
3 **the Suffolk County District Attorney**
4 **Prosecutor's office to decide ultimately**
5 **whether or not to prosecute someone who is 14:15:58**
6 **arrested?**
7 A. Yes.
8 **Q. So if I understand correctly,**
9 **merely because Van Koot and Schalik were**
10 **arrested didn't automatically mean that they 14:16:07**
11 **were going to be prosecuted by the District**
12 **Attorney's office?**
13 A. Well, we could back up a little
14 bit if I may.
15 **Q. Okay. Answer that question -- 14:16:16**
16 **answer the way you want. If Mr. Goodstadt**
17 **objects or makes a motion to strike later on**
18 **we will don't with it.**
19 A. They were not arrested until I had
20 the approval of the District Attorney's 14:16:30
21 office.
22 **Q. That is interesting. I never knew**
23 **that, so let me then ask you this question.**
24 **Prior to arresting Van Koot and**
25 **Schalik did you seek the approval from any law 14:16:42**

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1 Hesse
2 **enforcement entity or District Attorney's**
3 **office?**
4 A. Yes.
5 MR. BAPTISTE: Objection. General 14:16:51
6 objection.
7 MR. NOVIKOFF: To form?
8 MR. BAPTISTE: Yes.
9 **Q. Let me try to narrow it down a**
10 **little bit. Prior to arresting Van Koot and 14:17:06**
11 **Schalik did you have any communications with**
12 **the Suffolk County District Attorney's office**
13 **concerning arresting either of these two**
14 **individuals?**
15 A. Yes. 14:17:20
16 **Q. Can you describe for the jury and**
17 **the court what communications you had**
18 **concerning arresting Van Koot and Schalik**
19 **prior to actually arresting them?**
20 A. I told them what I had. I said I 14:17:32
21 had a lot of documents I would like to fax
22 over for review to make sure that this is
23 going correctly. I faxed them over. I spoke
24 to -- it was not Beth Grosso who was appointed
25 to us -- Mallory Sullivan was the prosecutor I 14:17:52

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1 Hesse
2 believe on this case, and I faxed everything
3 to her, she read it over. She said she needed
4 to speak to her bureau chief which in turn she
5 did. She got back to me and she said that the 14:18:08
6 charges look good. And then I filed the
7 charges with the court.
8 **Q. How long was the process between**
9 **your first communication with Ms. Sullivan and**
10 **then her advising you as you just testified 14:18:21**
11 **that the charges looked good?**
12 A. Couple of days maybe.
13 **Q. You only had two conversations**
14 **with Mallory prior to arresting?**
15 A. That was it, yeah. 14:18:33
16 **Q. What did you fax over to her?**
17 A. The entire package. It was all of
18 the plaintiff's statements. Their reports, my
19 reports. The charges that I was going to
20 draft up, the assault and harassment. I 14:18:47
21 believe Officer Bosetti's statement, Rich
22 Bosetti's statements. Basically every kit and
23 caboodle that you see her in front, all these
24 statements, I sent everything.
25 **Q. Did Ms. Sullivan ever advise you 14:19:05**

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1 Hesse
2 **that she thought any of the witness statements**
3 **were strange?**
4 A. No.
5 **Q. Did she ever question you as to 14:19:12**
6 **why no witness statement other than perhaps**
7 **the Bosetti's, Mr. Gary Bosetti's indicated --**
8 **didn't indicate a pool cue being used?**
9 A. Never asked.
10 **Q. Did she ever indicate to you that 14:19:30**
11 **she thought the charges were suspect?**
12 A. Not at all.
13 **Q. Did she ever indicate to you by**
14 **any words that she used that you all were**
15 **engaging in a cover up to protect Gary Bosetti 14:19:42**
16 **or Richie Bosetti?**
17 A. Absolutely not.
18 **Q. Has any district attorney involved**
19 **in the arrest and prosecution of Van Koot and**
20 **Schalik ever advised you that they thought 14:19:57**
21 **that there was a cover up?**
22 A. Never.
23 **Q. Now, this was October of 2004;**
24 **right?**
25 A. Yes. 14:20:07

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1 Hesse
2 **Q. And we are now August of 2009, so**
3 **almost five years removed. To your knowledge**
4 **have you ever been brought up on charges**
5 **concerning a cover up of the Halloween 14:20:17**
6 **incident?**
7 A. No.
8 **Q. Has anyone been brought up on**
9 **charges concerning the Halloween incident?**
10 A. No. 14:20:26
11 **Q. To your knowledge has the village**
12 **been sued by Van Koot or Schalik concerning**
13 **the events surrounding that evening?**
14 A. No, they did not.
15 **Q. Are you aware if the District 14:20:34**
16 **Attorney is investigating you or the Ocean**
17 **Beach Police Department with regard to a cover**
18 **up of the Halloween incident?**
19 A. Am I aware of an investigation?
20 **Q. Yes. 14:20:43**
21 A. I believe there is an
22 investigation done.
23 **Q. You believe that that**
24 **investigation has concluded?**
25 MR. GOODSTADT: Objection. 14:20:49

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1 Hesse
2 A. I don't know.
3 **Q. But this is now five years ago;**
4 **correct?**
5 A. This was five years ago, yes. 14:20:55
6 **Q. What is the basis for your belief**
7 **that the Suffolk County District Attorney's**
8 **office was investigating an alleged cover up?**
9 A. Just from the plaintiff's comments
10 in their depositions, that they turned all 14:21:08
11 their stuff over to file a complaint that
12 there was a cover up.
13 **Q. So other than what you saw in the**
14 **depositions and what you read in the**
15 **depositions are you aware from any other 14:21:18**
16 **source that the District Attorney is**
17 **investigating the alleged cover up of anything**
18 **involving the Halloween incident?**
19 A. No.
20 **Q. So what happened after 14:21:33**
21 **Ms. Sullivan gave you the green light to**
22 **arrest Schalik and Van Koot?**
23 A. I took all the paperwork, I filed
24 it with the court. The three -- I think it
25 was three court informations. One harassment, 14:21:47

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1 Hesse
2 one assault for Van Koot, one assault for
3 Schalik. I filed it with the court clerk.
4 She subsequently issued criminal summonses for
5 their appearance signed by the judge, and they 14:22:00
6 turned themselves in.
7 **Q. So if I understand your testimony**
8 **correctly, the judge had to sign off on the**
9 **criminal summonses; right?**
10 A. Yes. 14:22:13
11 **Q. And presumably if the judge didn't**
12 **think that there was enough good cause he or**
13 **she would not have signed the summonses?**
14 MR. GOODSTADT: Objection.
15 A. I would suspect, yeah. 14:22:20
16 **Q. You would suspect yes?**
17 A. Yes.
18 **Q. So now we have before the arrest**
19 **were made and correct me if I am wrong, the**
20 **DA -- you had done your investigation? 14:22:31**
21 A. Yes.
22 **Q. The DA had looked at whatever you**
23 **sent them?**
24 A. Yes.
25 **Q. And they gave you the green light? 14:22:39**

Page 720

1 Hesse
2 A. Yes.
3 **Q. And the judge gave you the green**
4 **light?**
5 A. Yes. 14:22:43
6 **Q. What happened after the judge gave**
7 **you the green light?**
8 A. They came into court I believe in
9 December sometime, and they were arraigned and
10 they showed with an attorney. And from that 14:22:54
11 point on they plea bargained and end of story.
12 They pled guilty, they allocuted and --
13 **Q. Let's break it down.**
14 **Did you arrest them after the**
15 **judge gave you the green light? 14:23:15**
16 A. No. After -- when they turned
17 themselves in and they were arraigned they
18 were remanded to police custody for pedigree
19 information, arrest paperwork and
20 fingerprints, pictures. 14:23:29
21 **Q. So if I understand the sequence of**
22 **events, after the judge gave you a green light**
23 **there was some type of communication made with**
24 **them that they were in fact charged with**
25 **certain crimes and they were offered an 14:23:40**

Page 721

1 Hesse
2 **opportunity to come present themselves to the**
3 **court, and they did?**
4 A. Which they did, yes.
5 **Q. So no officer went to their house 14:23:50**
6 **to arrest them?**
7 A. No.
8 **Q. No one put them in handcuffs and**
9 **took them in a boat back to Ocean Beach;**
10 **right? 14:23:59**
11 A. No.
12 **Q. And so they came into court, they**
13 **were arraigned. How were they arraigned, were**
14 **you there?**
15 A. Yes. 14:24:07
16 **Q. Describe for the court what took**
17 **place?**
18 A. Its funny because that year for
19 whatever reason the courtroom was shut down,
20 we had to use the village office which was 14:24:17
21 close to do the public except for court
22 purposes. We set up a table, the judge sat
23 behind the table. They stood before the judge
24 and they pled not guilty.
25 **Q. So the charges were read against 14:24:32**

Page 722

1 Hesse
2 **them?**
3 A. Yes.
4 **Q. Who read the charges against them?**
5 A. The judge. 14:24:37
6 **Q. And they were represented by**
7 **counsel?**
8 A. By counsel, yes.
9 **Q. By one or two counsel?**
10 A. I believe at that time it was two. 14:24:43
11 **Q. So each one of them had their own**
12 **counsel?**
13 A. Yes.
14 **Q. The charges were read against them**
15 **and they pled not guilty? 14:24:50**
16 A. Correct.
17 **Q. When did that take place?**
18 A. I believe in December. I don't
19 know the exact date.
20 **Q. You indicated in a prior answer 14:24:58**
21 **that they took a plea at some point in time**
22 **thereafter?**
23 A. Yes.
24 **Q. When did they take the plea?**
25 A. I don't know. 14:25:08

Page 723

1 Hesse
2 **Q. Weeks later, months later?**
3 A. It was probably a month or two.
4 It could have been longer.
5 **Q. Had you had any communication with 14:25:17**
6 **the District Attorney's office between the**
7 **time of the arraignment and the time of the**
8 **plea?**
9 A. No.
10 **Q. Were you aware at all that there 14:25:24**
11 **were plea discussions going on?**
12 A. I was aware, but I didn't know
13 what they were.
14 **Q. How were you aware?**
15 A. I know because they had to make 14:25:31
16 motions for discovery and everything else. So
17 I know they were communicating back and forth,
18 but other than an actual plea deal, I don't
19 know if I knew so until towards the end.
20 **Q. To your knowledge the defendant's 14:25:44**
21 **counsel made motions to get discovery?**
22 A. Sure.
23 **Q. What was your involvement?**
24 A. At this point?
25 **Q. How did you learn that they made 14:25:52**

Page 724

1 Hesse
2 **motions for discovery?**
3 A. I was in court when they made the
4 motions. They were speaking to the judge and
5 working out what they needed to do. 14:26:01
6 **Q. Pursuant to that motion did the**
7 **village -- or did the District Attorney to**
8 **your knowledge produce any discovery?**
9 A. Yes.
10 **Q. Do you know what the District 14:26:09**
11 **Attorney produced?**
12 A. I believe all these documents that
13 are sitting in front of us too.
14 **Q. So at least to your knowledge now**
15 **the District Attorney had an opportunity to 14:26:17**
16 **look at the witness statements and everything**
17 **else that was in the file, and Van Koot and**
18 **Schalik's attorneys had the opportunity to**
19 **look at those same documents; right?**
20 A. Yes. 14:26:30
21 **Q. Were you notified before the plea**
22 **was taken that there was going to be a plea?**
23 A. I don't recall whether I was
24 notified or not.
25 **Q. How did you learn that there was a 14:26:44**

Page 725

1 Hesse
2 **plea taken?**
3 A. I remember sitting in court and
4 listening to the plea and the allocution?
5 **Q. What did Van Koot to the best of 14:26:54**
6 **your recollection plea to?**
7 A. You know what, I don't know.
8 Disorderly conduct maybe.
9 **Q. Do you know what he allocuted to?**
10 A. He did admit to choking Jean 14:27:08
11 Jaeger. He did admit to holding Gary Bosetti
12 while Chris Schalik kicked him in the face.
13 **Q. And what did Chris Schalik plea to**
14 **to the best of your recollection?**
15 A. Probably the same type of 14:27:26
16 disorderly conduct.
17 **Q. What did to the best of your**
18 **recollection Chris Schalik allocute to?**
19 A. He stated that he did kick Police
20 Officer Gary Bosetti, or attempted to kick him 14:27:37
21 in the face.
22 **Q. Now did these witnesses to your**
23 **recollection advise Officer Lamm that evening**
24 **that Schalik had in fact kicked Bosetti in the**
25 **face while Van Koot had him on the ground? 14:27:56**

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1 Hesse
2 A. Did Christopher Schalik advise him
3 that he did --
4 **Q. According to any statement that**
5 **Lamm provided you did he ever indicate in that 14:28:05**
6 **statement that Schalik admitted to kicking**
7 **Bosetti in the face while Van Koot had him on**
8 **the ground?**
9 A. No.
10 **Q. In any statement that you saw Lamm 14:28:17**
11 **provide you during the course of the**
12 **investigation or even from that evening did he**
13 **ever advise in that statement that Van Koot**
14 **admitted to holding Bosetti down while Schalik**
15 **kicked him in the face? 14:28:30**
16 A. No.
17 **Q. How about with regard to Snyder,**
18 **in any statement that Snyder presented to you**
19 **with regard to the Halloween incident did he**
20 **ever make reference in there to Van Koot 14:28:39**
21 **acknowledging that he held Bosetti down while**
22 **Schalik kicked him?**
23 A. No.
24 **Q. Did he ever acknowledge in that**
25 **statement that Schalik admitted to kicking 14:28:48**

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1 Hesse
2 Bosetti while Van Koot held him down?
3 A. No.
4 Q. Same question with regard to Nofi.
5 In any statement that Nofi ever -- Snyder, 14:28:58
6 excuse me.
7 A. Nofi was not there.
8 Q. With regard to Snyder -- excuse
9 me, Fiorillo. With regard to Fiorillo, in any
10 statement that Fiorillo provided you did he 14:29:12
11 ever state in there that Van Koot acknowledged
12 that he held Bosetti down while Schalik kicked
13 him?
14 A. No.
15 Q. Same question now, did Fiorillo 14:29:27
16 ever acknowledge -- did Fiorillo ever state in
17 any statement that he gave you or any report
18 that he gave you that Schalik admitted to
19 kicking Gary Bosetti while he was being held
20 down by Van Koot? 14:29:42
21 A. No.
22 Q. So would you agree with me that
23 assuming that Van Koot and Schalik truthfully
24 allocuted to the events that took place that
25 evening, that they had lied to the officers 14:29:56

Page 728

1 Hesse
2 that evening?
3 MR. GOODSTADT: Objection.
4 A. Yes.
5 Q. How would you describe, I am going 14:30:07
6 to go officer by officer now, and I am only
7 referring specifically to the hours
8 immediately after the incident took place. So
9 from the time that the officers were called to
10 go to Hauser's to the time that Chief Paradiso 14:30:28
11 came into the station that morning, how would
12 you describe Fiorillo's investigation of the
13 events that took place?
14 MR. GOODSTADT: Objection.
15 MR. CONNOLLY: Objection. 14:30:43
16 Q. You can answer.
17 A. I just believe it was poorly done.
18 Q. With regard to Fiorillo now why do
19 you believe it was poorly done?
20 A. I just -- I don't believe that he 14:30:56
21 was aggressive enough to talk to the people he
22 thought were the complainant. I don't think
23 that he was aggressive enough to go into the
24 bar and just get names and phone numbers. You
25 know, where is the pool cue; nobody gathered 14:31:24

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1 Hesse
2 evidence. No names, no phone numbers, they
3 didn't secure the premise, they could have
4 shut the doors, turn the lights on, turn the
5 music on. I think there was just a lot of bad 14:31:35
6 decisions made throughout the course of the
7 entire incident.
8 Q. Now, how about Snyder -- well,
9 when I asked you about Fiorillo, do you
10 include Snyder and Lamm into that description 14:31:46
11 as well, or I could just ask you the questions
12 one by one if you want?
13 A. Yes, I do.
14 Q. So when you say you thought that
15 there were bad decisions made you are 14:31:55
16 referring to Fiorillo, Lamm and Snyder?
17 A. Yes.
18 Q. I'm going to try to do this
19 without boring everyone to death and going
20 line by line through the complaint for the 14:32:36
21 sake of expediency. Did any of the plaintiffs
22 ever complain to you about having to drive you
23 to anyplace in Ocean Beach for something
24 unrelated to official duties?
25 A. No. 14:33:00

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1 Hesse
2 MR. CONNOLLY: Objection.
3 Q. Did the plaintiffs ever drive you
4 anywhere in Ocean Beach for duties unrelated
5 to you being a police officer? 14:33:06
6 A. No.
7 Q. Did any of the plaintiffs ever
8 drive you to anyplace off the beach for
9 reasons unrelated to official police duty?
10 A. No. 14:33:22
11 MR. GOODSTADT: When you say off
12 the beach you are referring to outside of
13 Ocean Beach or off of Fire Island?
14 MR. NOVIKOFF: No, outside of
15 Ocean Beach which would include outside 14:33:28
16 of Fire Island as well, but it would also
17 include other towns on Fire Island.
18 A. Never.
19 Q. Did any of the plaintiffs ever
20 complain to you that any decision you made 14:33:39
21 created a public safety issue?
22 MR. GOODSTADT: Objection.
23 A. Never.
24 Q. Okay. Did any of the plaintiffs
25 ever complain to you that they witnessed any 14:33:59

Page 731

1 Hesse
 2 **officers drinking in bars while in uniform?**
 3 A. No.
 4 **Q. Did any of the plaintiffs ever**
 5 **complain to you with regard to their 14:34:11**
 6 **eyewitnessing any officers drinking in the**
 7 **bars when off duty?**
 8 A. Not a complaint, but I knew.
 9 **Q. All I care about is what the**
 10 **plaintiffs said to you? 14:34:27**
 11 A. There was never a complaint.
 12 **Q. That is what I am asking. So**
 13 **let's break it down a little bit and go back**
 14 **so the record is clear. Did any of the**
 15 **plaintiffs ever complain to you about any 14:34:35**
 16 **officers while off duty drinking in bars in**
 17 **Ocean Beach?**
 18 A. No complaints.
 19 **Q. Did any of the plaintiffs ever**
 20 **complain to you about the subject of you 14:34:57**
 21 **selectively enforcing the laws?**
 22 A. No.
 23 **Q. Did any of the plaintiffs ever**
 24 **complain to you about treating them**
 25 **differently than any other police officer? 14:35:14**

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1 Hesse
 2 A. No.
 3 **Q. Do you recall any complaints that**
 4 **Mr. Fiorillo ever made to you concerning**
 5 **anything involving the conduct of any police 14:35:33**
 6 **officer including him at Ocean Beach other**
 7 **than him complaining to you about washing the**
 8 **windows?**
 9 A. No.
 10 **Q. Were there any other examples of 14:35:39**
 11 **insubordination that you can think of with**
 12 **regard to Frank Fiorillo other than what you**
 13 **have testified to?**
 14 A. Yes, there was you know at lunch I
 15 started thinking about it a little bit and 14:35:50
 16 there was one other incident that he and Kevin
 17 Lamm both came to me and asked for whatever
 18 reason if they could take bail, station house
 19 bail outside the station house, and I told
 20 them no. That is why it is called station 14:36:13
 21 house bail. You bring somebody in, you are
 22 going to bail them. You do it inside the
 23 confines of the station house. You fill out a
 24 receipt, you put it on the summons, you attach
 25 both with the cash and you drop it in the lock 14:36:29

Page 733

1 Hesse
 2 box.
 3 For whatever reason they disagreed
 4 with me and they went to our judge at the
 5 time, Joe Russell, who sat as a criminal judge 14:36:37
 6 in our court, but was a civil attorney. I
 7 guess they asked him the same question, and he
 8 was like sure, you can do that. So they went
 9 over my head to somebody else that is not part
 10 of the Police Department to ask them 14:36:55
 11 permission to do it, and subsequently they
 12 started doing it.
 13 One evening I caught them outside
 14 the Police Department in the police car behind
 15 closed doors taking cash off of somebody for 14:37:07
 16 bail. Now the money was accounted for, so
 17 there was no suspect that they were stealing
 18 or anything. But as far as my previous wish
 19 that they do not do it, they were told not to
 20 do it, they did it anyway. And I have caught 14:37:25
 21 them since doing it.
 22 So they were reprimanded,
 23 counseled in personal by me.
 24 **Q. Did Lamm ever complain to you**
 25 **about anything going on concerning the Ocean 14:37:42**

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1 Hesse
 2 **Beach Police Department?**
 3 MR. GOODSTADT: Objection.
 4 A. That is a little broad, but no, no
 5 complaints. 14:37:53
 6 **Q. I tried to make it as broad as I**
 7 **can make it. Did Lamm ever complain to you**
 8 **about the Bosetti's?**
 9 A. No.
 10 **Q. Did Fiorillo ever complain to you 14:38:04**
 11 **about the Bosetti's?**
 12 A. No.
 13 **Q. Did Snyder ever complain to you**
 14 **about anything involving the conduct of any**
 15 **person affiliated with the Ocean Beach Police 14:38:19**
 16 **Department?**
 17 A. No.
 18 **Q. Same question with regard to**
 19 **Carter?**
 20 A. No. 14:38:24
 21 **Q. Same question with regard to Nofi?**
 22 A. No.
 23 **Q. Did any of the plaintiffs ever**
 24 **advise you that they were aware that there was**
 25 **an individual in town selling -- carrying 14:38:38**

Page 735

1 Hesse
2 lollipops that were laced with drugs?
3 A. No, I never heard of that before.
4 Q. Did the plaintiffs ever complain
5 to you that the bars in Ocean Beach were 14:38:55
6 permitting under age individuals drinking?
7 A. Not specifically, no.
8 Q. What about generally?
9 A. We knew that it goes on, it is
10 just a matter of catching them. 14:39:11
11 Q. What if anything did the Ocean
12 Beach Police Department do prior to April 2,
13 2006 to enforce the laws concerning under age
14 drinking in the bars on Ocean Beach?
15 A. Specifically nothing. It was a 14:39:23
16 case-by-case. If you caught them, you did.
17 If you didn't, you didn't. It was one of
18 those things.
19 Q. If you saw what you believed --
20 not you, but police officers were instructed 14:39:35
21 that if they saw what they believed to be
22 under age drinking going on either in or out
23 of the bars they were to enforce the laws?
24 A. Absolutely.
25 Q. Did any of the plaintiffs ever 14:39:49

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1 Hesse
2 complain to you that the Bosetti's weren't
3 enforcing the laws with regard to under age
4 drinking?
5 A. No. 14:39:54
6 Q. Let me rephrase the question.
7 Did any of the plaintiffs ever
8 complain you to that the Bosetti's were not
9 enforcing the laws as it pertained to under
10 age drinking? 14:40:10
11 A. No.
12 Q. How about with -- did the
13 plaintiffs ever complain to you that any other
14 police officer wasn't enforcing the laws as to
15 under age drinking? 14:40:20
16 A. No.
17 Q. Did they ever complain to you that
18 you were not enforcing the laws as to under
19 age drinking?
20 A. No. 14:40:29
21 Q. Did you ever instruct any of the
22 plaintiffs not to issue a summons to any bar
23 owner because he or she was a friend of yours?
24 A. No.
25 Q. Well let me actually make it a 14:40:38

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1 Hesse
2 little bit more broader than that. Did you
3 ever instruct the plaintiffs not to issue any
4 summonses to any bars on Ocean Beach?
5 A. No. 14:40:44
6 Q. Did you ever instruct any of the
7 plaintiffs to stay away from any particular
8 entity and not issue summonses to them?
9 A. No.
10 Q. Did you ever instruct the 14:40:55
11 plaintiffs not to -- any of the plaintiffs not
12 to issue summonses to friends of yours?
13 A. No.
14 Q. Did you ever call Mr. Lamm a loser
15 in front of any citizen at Ocean Beach? 14:41:07
16 A. No.
17 Q. Did you ever insult any of the
18 plaintiffs in front of any citizens of Ocean
19 Beach?
20 A. No. 14:41:16
21 MR. GOODSTADT: Objection.
22 Q. Same question, did you ever insult
23 any of the plaintiffs in front of any visitors
24 to Ocean Beach?
25 A. No. 14:41:25

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1 Hesse
2 MR. GOODSTADT: Objection.
3 Q. I will try to make it even
4 clearer. Did there ever come a time that you
5 insulted, denigrated, cursed or embarrassed 14:41:38
6 any of the plaintiffs in front of anybody
7 other than police officers -- you know what,
8 take a step back.
9 Did he ever embarrass, denigrate,
10 insult or ridicule any of the plaintiffs in 14:41:54
11 front of anybody while they were police
12 officers at Ocean Beach?
13 A. No.
14 Q. In the complaint the plaintiffs
15 allege certain things regarding the Bosetti's 14:42:15
16 throwing a file cabinet into the bay. Do you
17 recall reading that. Do you recall reading
18 that in the complaint?
19 A. Yes.
20 Q. Do you have knowledge, any 14:42:31
21 knowledge as to what the plaintiffs were
22 referring to when they made those allegations?
23 A. Yes.
24 Q. Can you describe for the court
25 what your knowledge is with regard to those 14:42:39

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1 Hesse
2 **allegations?**
3 A. I was told the story by Ed
4 Paradiso.
5 **Q. That is what I want to know. 14:42:46**
6 A. Basically it was an empty filing
7 cabinet, two or three tears, you know like
8 just a short filing cabinet, and it was thrown
9 into the marina, the middle marina by I
10 believe Rich Bosetti. 14:43:05
11 **Q. What else did Ed Paradiso tell**
12 **you?**
13 A. I remember that it was a
14 lifeguard, Johnny Bucksbaum, that was asked to
15 go in and retrieve it. They retrieved it, 14:43:16
16 they opened it, it was empty. I think there
17 was some blank fingerprint cards in it.
18 **Q. This is what Ed Paradiso told you?**
19 A. Yes, he did.
20 **Q. And were you in the village the 14:43:30**
21 **night or -- were you in the village at the**
22 **time that the Bosetti's through the file**
23 **cabinet in?**
24 A. No.
25 **Q. What involvement if any do you 14:43:37**

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1 Hesse
2 **have with regard to anything involving the**
3 **incident involving the file cabinet being**
4 **thrown in the bay?**
5 MR. GOODSTADT: Objection. 14:43:49
6 A. Absolutely none.
7 **Q. Did you ever speak to Mr. Fiorillo**
8 **about that incident?**
9 A. No.
10 **Q. Ever speak with Lamm? 14:43:53**
11 A. No.
12 **Q. Nofi?**
13 A. No.
14 **Q. Lamm?**
15 A. No. 14:43:57
16 **Q. Carter?**
17 A. No.
18 **Q. Snyder?**
19 A. No.
20 **Q. Let's go to the incident -- not 14:44:02**
21 **the incident, let's go to the allegation**
22 **concerning you putting Fiorillo on the same**
23 **shift for three straight days, same tour three**
24 **straight days and he couldn't move a muscle.**
25 **Do you recall those allegations? 14:44:58**

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1 Hesse
2 A. Yes.
3 **Q. Are those allegations true or**
4 **false?**
5 A. False. 14:45:02
6 **Q. I think you admitted though you**
7 **did put Mr. Fiorillo on the same tour for**
8 **three state days?**
9 A. That was his scheduled tour by Ed
10 Paradiso. 14:45:15
11 **Q. I am sorry, the same place?**
12 A. Yes, it was the general area.
13 **Q. So Mr. Paradiso had put Mr.**
14 **Fiorillo on the corner of Denhoff and Bay**
15 **Walk? 14:45:25**
16 A. No, you misunderstand. He
17 scheduled the shifts, but I put him on that
18 post.
19 **Q. The post, thank you, and the post**
20 **was Denhoff and Bay Walk? 14:45:33**
21 A. Yes.
22 **Q. What were the responsibilities of**
23 **the police officers who were assigned to this**
24 **post?**
25 MR. GOODSTADT: Objection. 14:45:43

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1 Hesse
2 A. It is basically a west end post,
3 it is just not Denhoff and Bay Walk. We just
4 called it that. But you had everything from
5 the police station west of that area that 14:45:53
6 encompassed about four or five blocks.
7 **Q. So what was a police officer that**
8 **you assigned to that post supposed to do as**
9 **part of his duties and responsibilities**
10 **associated with that post? 14:46:05**
11 A. Generally a regular patrol.
12 **Q. I am not a police officer, so --**
13 A. Basically he walked the area.
14 There is about one, two, three, four, five
15 bars in that area and one, two, three -- about 14:46:18
16 ten storefronts in that area, and that was his
17 post.
18 **Q. And you categorically deny that**
19 **you told Mr. Fiorillo that he had to stand**
20 **under that light post for three straight days 14:46:37**
21 **without moving a muscle?**
22 A. Yes, that wasn't true.
23 MR. GOODSTADT: We have a classic
24 material issue effect.
25 MR. NOVIKOFF: Yes, but it is not 14:46:58

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1 Hesse
2 relevant.
3 MR. GOODSTADT: That is why we
4 asked questions.
5 MR. NOVIKOFF: You put it in your 14:47:09
6 complaint.
7 **Q. So Mr. Hesse, let me ask you this,**
8 **I think the jury would want to know. Why did**
9 **you do that?**
10 MR. GOODSTADT: Objection. 14:47:17
11 A. Like I stated --
12 MR. NOVIKOFF: What?
13 MR. GOODSTADT: Do what?
14 **Q. I thought it was clear we were**
15 **referring back to the prior question. I will 14:47:25**
16 **make the question clear.**
17 **Why did you assign Mr. Fiorillo to**
18 **that post for three straight tours?**
19 A. His regular duty performance was
20 to operate a golf cart. He liked it. That is 14:47:40
21 what he liked to do. It is called a G.E.M.
22 car, and he would go on residential patrol.
23 That is what he liked to do. So I would
24 assign him that regular post because like I
25 said that is what he liked to do. 14:48:00

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1 Hesse
2 Because of his actions that day of
3 insubordination I felt that a suitable
4 punishment would be to take him out of the
5 G.E.M. car and put him on a foot post. 14:48:12
6 **Q. You did that for three straight**
7 **tours?**
8 A. I don't know if it was three
9 tours. They say it was three tours. It might
10 have been a tour and a half or two tours 14:48:24
11 maybe. I am a little bit of a lenient guy, I
12 don't know.
13 **Q. The plaintiffs make a number of**
14 **allegations about driving officers to**
15 **checkpoints? 14:48:36**
16 A. Yes.
17 **Q. Either these officers being drunk**
18 **or some of them not being drunk. Do you**
19 **remember those allegations?**
20 A. Yes. 14:48:47
21 **Q. Let's talk about that for a little**
22 **bit. Do you have an understanding as to what**
23 **the plaintiffs are talking about when they**
24 **make allegations about you directing them to**
25 **drive other police officers to the 14:48:59**

Page 745

1 Hesse
2 **checkpoints?**
3 MR. GOODSTADT: Objection.
4 A. I know what they mean.
5 **Q. What do they mean? 14:49:05**
6 A. Our checkpoint, the checkpoint --
7 **Q. Break it down. Have you ever**
8 **instructed officers to drive other officers to**
9 **checkpoints?**
10 A. Yes. 14:49:18
11 **Q. Tell the jury why you would do**
12 **that?**
13 A. End of tour, if a guy did overtime
14 and he had to get out of there we would
15 normally drive them out, and that was our 14:49:28
16 relief point, that is what we did every day
17 three, four to five times a day. That is what
18 we did.
19 **Q. When you say that was your relief**
20 **point, for the people who don't know what that 14:49:39**
21 **means, what do you mean?**
22 A. That would be where we would pick
23 up the police car and we would relief guys
24 going on deputy and off duty, and that is
25 where we make the exchange. 14:49:47

Page 746

1 Hesse
2 **Q. Would the relief point be where**
3 **officers would drive their owns cars to start**
4 **their shifts?**
5 A. Yes. 14:49:58
6 **Q. Unless they took a boat over?**
7 A. Yes.
8 **Q. Were the plaintiffs the only**
9 **officers that you ever instructed to drive**
10 **other officers to the relief point? 14:50:10**
11 A. No.
12 **Q. Did you ever instruct any of the**
13 **plaintiffs to drive a drunken police officer**
14 **who had just finished his tour to the**
15 **checkpoint? 14:50:22**
16 A. No.
17 MR. GOODSTADT: Objection.
18 **Q. Did any of the plaintiffs ever**
19 **object to you directing them to drive any**
20 **police officer to a checkpoint? 14:50:37**
21 A. No.
22 **Q. Did the plaintiffs ever complain**
23 **to you that you left the village shorthanded**
24 **by instructing them to drive any other off**
25 **duty police officer to the checkpoint? 14:50:53**

Page 747

1 Hesse
2 A. No.
3 **Q. In your opinion did you leave the**
4 **village shorthanded when you directed one**
5 **officer to drive an off duty police officer to** 14:51:01
6 **the checkpoint?**
7 A. No.
8 **Q. Let's talk about the termination a**
9 **little bit, but more specifically because I**
10 **think Mr. Goodstadt covered it with you this** 14:51:32
11 **morning. Let's address specifically April 2,**
12 **2004. What time did the meeting start?**
13 A. You mean 2006.
14 **Q. 2006, sorry. What time did the**
15 **meeting start?** 14:51:48
16 A. 11ish maybe.
17 **Q. What time did it end?**
18 A. I don't recall. It could have
19 gone a couple of hours.
20 **Q. When in relation to 11 o'clock did** 14:51:58
21 **you begin the process of informing the**
22 **plaintiffs privately that they were not going**
23 **to be rehired?**
24 A. That was my first order of
25 business. 14:52:08

Page 748

1 Hesse
2 **Q. And after you told them that they**
3 **were not rehired and you said whatever you**
4 **said and they said whatever they said did you**
5 **direct them to leave the island, the village?** 14:52:14
6 A. Yes. I set up a water taxi to be
7 there so they didn't have to stand around and
8 be gawked at and, you know, I paid for the
9 water taxi and everything.
10 **Q. Now to your knowledge did they go** 14:52:30
11 **on the water taxi or did they stay and linger**
12 **in the village?**
13 A. They got on the water taxi.
14 **Q. So approximately if the meeting**
15 **started at 11 and that was the first order of** 14:52:41
16 **business, at what point in time do you recall**
17 **them being on the water taxi and going off the**
18 **island?**
19 A. By the time we settled in and I
20 started talking to them it could have been an 14:52:53
21 hour at most.
22 **Q. Then what did you do after you**
23 **spoke to the four plaintiffs that you spoke to**
24 **that morning?**
25 A. They left and the general meeting 14:53:01

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1 Hesse
2 started.
3 **Q. Where did the general meeting take**
4 **place?**
5 A. It was in the boat house in Ocean 14:53:08
6 Beach, or known as the boat house.
7 **Q. How long did that meeting go on**
8 **for?**
9 A. A few hours maybe.
10 **Q. Were you at a podium and was** 14:53:15
11 **everybody else sitting, or were you in seats**
12 **or in a circle?**
13 A. No, they all sat facing me and I
14 stood or sat behind the table.
15 **Q. Did you make any comments during** 14:53:31
16 **this meeting that you just described regarding**
17 **any of those four plaintiffs?**
18 A. No.
19 **Q. Did you make any derogatory**
20 **comments about those four plaintiffs?** 14:53:45
21 A. No.
22 **Q. Did you call them anything; did**
23 **you make reference to them at all in this**
24 **meeting?**
25 A. I was asked what happened. 14:53:52

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1 Hesse
2 **Q. Who asked you?**
3 A. Some of the other police officers.
4 **Q. Okay. Do you recall who?**
5 A. Well, what had happened was I 14:54:01
6 started calling in officers one at a time
7 because I was doing a one-on-one with some
8 other guys, and I think a lot of people had
9 feared that they were going too. So I was
10 asked what had happened and I basically 14:54:17
11 explained that they won't be returning this
12 year, and we just proceeded with our meeting
13 and I tried to stay off of it.
14 **Q. So other than in those one-on-ones**
15 **did you ever in front of the entire group make** 14:54:29
16 **any reference to the plaintiffs?**
17 A. No.
18 **Q. Direct or indirect?**
19 A. No.
20 MR. NOVIKOFF: Off the record. 14:54:48
21 THE VIDEOGRAPHER: The time is
22 2:56, we are off the record.
23 (Recess taken.)
24 THE VIDEOGRAPHER: The time is
25 3:06, we are on the record. 15:04:38

Page 751

1 Hesse
2 Q. Now, Mr. Hesse, let's go to
3 Exhibit 27.
4 A. Okay.
5 Q. This document was dated March 11, 15:05:10
6 2006; correct?
7 A. Yes.
8 Q. Did the 2006 season start as of
9 March 11, 2006?
10 A. No. 15:05:25
11 Q. The meeting was held on April 2,
12 2006, had the season started as of April 2,
13 2006?
14 A. No.
15 Q. When did the season start in 2006? 15:05:34
16 A. The season usually starts two
17 weeks before Memorial Day.
18 Q. May 31st or around that time?
19 A. 28th, early, late, it depends.
20 Q. Once you made the decisions as to 15:05:47
21 whom you were going to -- let me take a step
22 back. You answered some questions by Mr.
23 Goodstadt concerning your communications with
24 Allison Chester concerning what your rights
25 were and what the plaintiff's rights were? 15:06:02

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1 Hesse
2 A. Yes.
3 Q. Let's break it down. Why did you
4 call Ms. Chester prior to March -- I'm sorry,
5 prior to April 2, 2006 with regard to what the 15:06:12
6 plaintiffs' rights were?
7 A. I wanted to make sure that, you
8 know, that I did the right thing.
9 Q. In terms of what?
10 A. I didn't want to do anything that 15:06:24
11 was illegal.
12 Q. What was the reason why you asked
13 Ms. Chester what your rights were?
14 A. I wanted to make sure that once
15 again I didn't do anything illegal. 15:06:43
16 Q. When you say anything illegal, you
17 mean with regard to your decision to not
18 rehire the plaintiffs for the season; is that
19 correct?
20 A. Right, based on Civil Service law. 15:06:55
21 Q. When were you appointed Acting
22 Deputy Chief?
23 A. I think it was January either 8th
24 or 18th or 6th. Somewhere in January of 2006.
25 Q. Between the time that Chief 15:07:13

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1 Hesse
2 Paradiso went out for good in September of
3 2005.
4 A. Right.
5 Q. And the time that you were 15:07:19
6 appointed by board resolution to be acting
7 chief, who was responsible for scheduling
8 tours?
9 A. I was.
10 Q. Now, did the season -- the 2005 15:07:30
11 season ended sometime in October?
12 A. September it really ends, two
13 weeks after Labor Day.
14 Q. So middle of September?
15 A. Yes. 15:07:48
16 Q. Between the middle of September
17 and January did you have to schedule officers
18 to work part-time?
19 A. Yes.
20 Q. There is a difference between 15:07:59
21 being -- at least to your understanding for
22 Ocean Beach was there a difference between
23 being a seasonal officer and being an off
24 season part-time officer?
25 A. Yes, it is a title thing. 15:08:11

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1 Hesse
2 Q. So with regard now only to the off
3 season in 2005 between mid September and the
4 end of December 2005 did you schedule to your
5 knowledge any of the plaintiffs to do 15:08:28
6 part-time shifts?
7 A. Yes.
8 Q. Who did you schedule?
9 A. Tom Snyder, Eddie Carter. I
10 believe Nofi did maybe one or two tours. And 15:08:41
11 Frank Fiorillo did either one or two tours.
12 Q. During that period of time had you
13 had any reason to consider whether or not --
14 well, withdrawn.
15 During that period of time were 15:08:56
16 you aware that you were going to be given the
17 responsibilities as Acting Deputy Chief in
18 2006?
19 A. No.
20 Q. When did you first learn that you 15:09:06
21 were going to be considered to be the Acting
22 Deputy Chief?
23 A. I think in late December.
24 Q. And when were you advised that you
25 were going to actually be voted upon to be the 15:09:18

Page 755

1 Hesse
2 **Acting Deputy Chief?**
3 A. Maybe a week before.
4 **Q. At what point in time did you**
5 **begin to formulate an opinion as to whether or 15:09:28**
6 **not you were going to rehire any of the five**
7 **plaintiffs for the 2006 season?**
8 A. When the job became mine in
9 January through February and March I started
10 thinking about what I wanted to do and how I 15:09:49
11 wanted the department to go forward and I made
12 a decision.
13 **Q. Let's talk about that. How did**
14 **you want the department to go forward once you**
15 **learned that you were going to be the Acting 15:10:00**
16 **Deputy Chief?**
17 A. I wanted the department to be a
18 little more respectful, a little more
19 understanding of the needs of the village. We
20 are a very community service oriented Police 15:10:15
21 Department. We handle everything from a
22 splinter in a baby, to a dog fighting, noise,
23 bar fights, to possibly rape, or being stab or
24 short of murder. So I mean I wanted the
25 department to move in a different direction. 15:10:36

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1 Hesse
2 **Q. Did Mr. Fiorillo fit within the**
3 **type of Police Department that you wanted**
4 **Ocean Beach to become upon your appointment to**
5 **Acting Chief? 15:10:49**
6 A. In my opinion, no.
7 **Q. Why not?**
8 A. I think he was a little too abrupt
9 with the community and the people who
10 vacationed there. I tried to instill in a lot 15:10:58
11 of these guys that people come there to have
12 fun, and we are there to make sure that they
13 do it safely and within the scope of the law.
14 **Q. When you say too abrupt, can you**
15 **give me some examples? 15:11:13**
16 A. Yeah, we have one of these silly
17 laws where you can't bike ride during the
18 summer season, and let's say Officer Fiorillo
19 would pull over this woman for riding her
20 bike, and because she failed to have 15:11:27
21 identification on her he would berate her and
22 yell at her, and that is not what we are
23 doing, that is not what we are there for.
24 **Q. When you say berate and yell what**
25 **do you mean? 15:11:43**

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1 Hesse
2 A. Where is your fucking ID, how come
3 you don't have your ID, this is illegal.
4 **Q. Hold on, you got to go slowly.**
5 **What else? 15:11:43**
6 A. You should know better. You
7 should always have your ID on you. But I mean
8 yelling at these people.
9 **Q. How did you learn of this, this**
10 **specific example? 15:12:02**
11 A. This specific example, I was
12 called to the scene.
13 **Q. By whom?**
14 A. By another police officer.
15 **Q. Did the woman complain to you 15:12:11**
16 **about how she was spoken to?**
17 A. Yes.
18 **Q. What was Mr. Fiorillo's response**
19 **if any?**
20 A. That she was a bitch and that, you 15:12:19
21 know, she disrespected him.
22 **Q. Did Mr. Fiorillo indicate how she**
23 **disrespected him?**
24 A. Just by talking back.
25 **Q. Did Mr. Fiorillo explain to you 15:12:30**

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1 Hesse
2 **why he considered her to be a bitch?**
3 A. He felt that she had an attitude,
4 a certain attitude.
5 **Q. What if anything did you do with 15:12:38**
6 **regard to Mr. Fiorillo upon receipt of this**
7 **complaint by this woman?**
8 A. Well, I let him continue to write
9 the summons. I told him not to say another
10 word, that was between me and him, I didn't do 15:12:54
11 it in front of her, I pulled him aside a
12 little bit. I said just calm down, it is a
13 bike riding ticket, write the ticket and let
14 her go, and that is it.
15 **Q. Any other examples that you can 15:13:06**
16 **think of as you sit here today?**
17 A. Similar complaints. We had one
18 kid whose father came to talk to me who
19 happens to be a corrections officer, Tom
20 Foley, his son was stopped for riding his bike 15:13:22
21 at night. The kid, maybe he mouth off a
22 little bit to him, but Frank threatened to
23 shoot him in the head. The father came down
24 and complained with his son that Frank stated
25 he was going to shoot him in the head. 15:13:39

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1 Hesse

2 **Q. Shoot him in the head or shoot him**

3 **in the face?**

4 A. I think it was shoot him in the

5 head. 15:13:46

6 **Q. Did you speak to Mr. Fiorillo**

7 **concerning this?**

8 A. Yes.

9 **Q. What was Mr. Fiorillo's response**

10 **to you if any?** 15:13:52

11 A. He said that the kid was irate, he

12 was throwing his bike around, and I told him,

13 I said Frank, you know what, I don't care, you

14 just don't talk to people like that. I talked

15 to other witnesses that were there and they 15:14:07

16 said that is not what happened. Frank just

17 went off on one of his regular tears and

18 started to yell and berate this guy in the

19 street.

20 **Q. When you say regular tears, what** 15:14:19

21 **do you mean?**

22 A. This was a usual thing with Frank.

23 You know, he carried the badge and he carried

24 a chip on his shoulder. It was just a regular

25 occurrence. 15:14:28

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1 Hesse

2 **Q. Let me ask you a question. I am**

3 **sure Mr. Goodstadt will ask you this question**

4 **if he has not already. How come you didn't**

5 **advise Mr. Paradiso that in your opinion** 15:14:37

6 **Fiorillo should not be rehired?**

7 A. He knew. He knew. He dealt with

8 him. But you know what, Ed Paradiso had a

9 different outlook on things than I did. He

10 enjoyed the misery of sending these guys out 15:14:54

11 there to do this kind of thing. He was happy

12 they didn't have discretion, because we have

13 such silly laws that in our village code book,

14 eating on the beach, drinking on the beach,

15 not alcohol, but regular beverages on the 15:15:12

16 beach. You can't eat or drink past a certain

17 point on a certain street. The bike riding

18 laws. You name it. Ball playing on the

19 beach. He is out there writing a father for

20 throwing a tennis ball to his son. 15:15:30

21 These are the kind of things that

22 went on on a regular basis. He took this poor

23 86 year old woman who didn't have ID eating

24 peanuts on the beach and because she didn't

25 have ID he would escort her all the way to the 15:15:42

Page 761

1 Hesse

2 police station to verify who she was. I mean

3 is that really a crime; what does it take.

4 How much does the village have to take.

5 **Q. Let me just clarify this. There** 15:15:53

6 **was an occasion where an 86 year old woman was**

7 **on a bike, she --**

8 A. No, she was eating peanuts on the

9 beach.

10 **Q. She didn't have ID and Mr.** 15:16:04

11 **Fiorillo escorted this woman back to the**

12 **police station to verify that she was in fact**

13 **who she was?**

14 A. Yes.

15 **Q. You said that Paradiso knew all** 15:16:13

16 **this. Now I am only concerned about Mr.**

17 **Fiorillo for the time being. What do you mean**

18 **that Paradiso knew all about this?**

19 A. Frank worked split tours. He

20 would partially for me and he would work 15:16:29

21 partially for Ed Paradiso, and Ed Paradiso

22 would encourage him to go out there and do

23 these types of summonses.

24 **Q. Did you ever discuss with Paradiso**

25 **why he was encouraging Fiorillo to do these** 15:16:42

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1 Hesse

2 **types of summonses?**

3 A. No, not really.

4 **Q. Did you -- I am trying to**

5 **understand. Why didn't you ever tell Paradiso** 15:16:53

6 **hey, Fiorillo is just, you know, in my opinion**

7 **he should not be rehired?**

8 A. You know, it is such a small

9 village and in conversation I don't want to

10 say I never said it, I may have said it. But, 15:17:07

11 you know, I don't know for sure if we talked

12 about it. We talked about a lot of -- like I

13 said earlier I never saw eye to eye with Ed

14 Paradiso on a lot of things. I would come in

15 for my tour he would already be done. He 15:17:27

16 would come in late.

17 It was hard to talk to him. I

18 mean towards the end of his rein it just --

19 the department was falling apart, and I blame

20 it on him and I blame it on type of 15:17:38

21 enforcement that was going on. So...

22 **Q. So you thought for want of a**

23 **better term it would have been a futile act to**

24 **ask Ed not to rehire Fiorillo?**

25 A. Absolutely it was a futile act. 15:17:53

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1 Hesse
2 Absolutely.
3 **Q. Because Paradiso knew what**
4 **Fiorillo was doing?**
5 A. Yes. Paradiso would go to these 15:17:57
6 board meetings and sit there, and people would
7 yell about certain things, noise, this, that
8 the other thing. And he used Frank as a tool
9 of the Police Department to just go out there
10 and just hammer these people into submission, 15:18:11
11 and that is not what we are supposed to.
12 **Q. In your opinion Mr. Fiorillo would**
13 **not have reflected the type of Police**
14 **Department that you wanted?**
15 A. That is correct. 15:18:23
16 **Q. So when you became in control of**
17 **who was to be rehired and who was not, you**
18 **made the decision not to hire Mr. Fiorillo?**
19 A. That is correct.
20 **Q. Now you talked about some silly 15:18:32**
21 **laws that were on the books. Between the**
22 **season of 2006 when you first were the Acting**
23 **Chief and this season, 2009, has the**
24 **enforcement of those silly laws as you put it**
25 **increased or decreased? 15:18:48**

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1 Hesse
2 A. Well I made a lot of changes. It
3 was hard to establish a, you know, a statistic
4 because I changed all the paperwork.
5 Midstream through 2006 I changed the summons 15:19:02
6 format. So I had to retrain and re-educate my
7 guys on how to write the summonses correctly.
8 There was a lot of issues.
9 Now I mean that we are in to 2009
10 it is up. I mean we enforce, we still enforce 15:19:16
11 those silly laws, but we do it with respect.
12 **Q. So when you say you had to retrain**
13 **your officers, what do you mean?**
14 A. Basically a lot of the paperwork
15 changed. So I had to sit down as a group and 15:19:34
16 explain what I expected on the summons, how to
17 issue the summons. We even changed because it
18 is a four-page document which document you
19 give to the defendant.
20 **Q. Let me ask you this, I am not 15:19:46**
21 **trying to be argumentative, I am trying to**
22 **understand. How did the change in the summons**
23 **affect the amount of summonses up or down that**
24 **were issued with regard to these silly laws?**
25 A. I think some of the guys were 15:20:03

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1 Hesse
2 afraid to write them because they didn't
3 really -- you know, there were getting the
4 idea how to write them, but I think they were
5 just cautious on how many they were writing 15:20:13
6 just to get the feel of it.
7 **Q. Let's talk about Mr. Lamm. Was**
8 **Mr. Lamm in your opinion the type of officer**
9 **that you wanted in the department as you saw**
10 **the department should be once you became the 15:20:36**
11 **Acting Chief?**
12 A. No.
13 **Q. He why not?**
14 A. He was a lot like Fiorillo.
15 Showed no discretion. You know, from time to 15:20:44
16 time he would have to be counseled, talked to
17 about certain actions that he took.
18 Specifically -- it started to get to the point
19 where under our village code he started
20 handcuffing individuals and bringing them to 15:21:05
21 the Police Department to issue summonses for a
22 Village violation where he should be doing it
23 out on his post where he was to begin with.
24 **Q. I don't understand, what do you**
25 **mean? 15:21:19**

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1 Hesse
2 A. So he would be walking down the
3 street where he would see some suspect pissing
4 in public. He would throw the guy in
5 handcuffs, toss him, do an illegal search and 15:21:27
6 seizure because what the heck are you looking
7 for, number one you have no probable cause.
8 Bring the guy to the police station and issue
9 him a summons and then unhandcuff him and let
10 him go. 15:21:43
11 **Q. What should he have done?**
12 A. Wrote the summons right there.
13 Show me some ID, check it out, make sure it is
14 a valid ID, write the summons and send the guy
15 on his way. 15:21:51
16 **Q. Did Paradiso instruct him to put**
17 **these people in handcuffs and take them to the**
18 **police station?**
19 A. No.
20 **Q. Did you ever instruct Kevin to 15:22:00**
21 **stop putting people in handcuffs for pissing**
22 **in public type violations?**
23 A. Yes, I did.
24 **Q. Did he listen to you?**
25 A. No, he did not. 15:22:16

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1 Hesse
2 **Q. Was that an act of**
3 **insubordination?**
4 A. Yes, it was.
5 **Q. Did that have any impact on your 15:22:19**
6 **decision as to whether or not Mr. Lamm was the**
7 **type of officer that you wanted on your police**
8 **force going forward in light of the changes**
9 **that you wanted to make?**
10 A. Right, I didn't want him any 15:22:26
11 longer with the department.
12 **Q. Are there any other examples that**
13 **you can think of where you instructed Mr. Lamm**
14 **while he was working on your shift to do**
15 **something as it related to summonses that he 15:22:36**
16 **didn't do?**
17 A. To summonses that he didn't do;
18 not that I can think of.
19 **Q. How about generally, do you recall**
20 **any other examples where he just disregarded 15:22:47**
21 **one of your directions or instructions?**
22 A. Yes, there was one other time that
23 I can think of, this is really towards the end
24 of his employ. We just got this big guy off
25 the water taxi, the guy was probably 6 foot 2, 15:23:03

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1 Hesse
2 240 and huge. And I was able to calm this
3 individual down, I was able to get him off the
4 water taxi. I forget what the disturbance was
5 on the taxi, whether he was not listening to 15:23:18
6 the captain's command to sit down, stop
7 drinking, smoking or whatever it was, and we
8 had about five officers in a line because this
9 guy was so big and we were worried that maybe
10 he may act inappropriate, attack us, punch 15:23:38
11 somebody, who knows, he was irate.
12 And I am talking to the guy and I
13 am walking him down the street and Kevin out
14 of nowhere says you fucking asshole, I will
15 kick your ass and the guy steps at us, and I 15:23:56
16 actually had to reprimand Kevin right there on
17 the spot, tell him to shut up, and step
18 between him and the guy and get this guy to
19 turn around and keep walking. This is not a
20 police officer that we needed working in the 15:24:09
21 department.
22 **Q. While we are on that subject, you**
23 **talked about Mr. Fiorillo's demeanor with the**
24 **public. What was Mr. Lamm's demeanor in the**
25 **public like; in your opinion based upon either 15:24:19**

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1 Hesse
2 **your observations or what you were told?**
3 A. His demeanor was abrupt also. You
4 know every time you stop somebody and write
5 them a summons they are going to question your 15:24:33
6 authority, they are going to do something.
7 You know you take it as for what it is worth.
8 But Kevin Lamm, he would step right into you,
9 almost provoke the guy into a fight. That is
10 not the demeanor that we need in this Police 15:24:46
11 Department.
12 **Q. What about Joe Nofi, in your**
13 **opinion was he the type of officer that you**
14 **wanted to be in your department given the**
15 **changes that you wanted to make? 15:25:04**
16 A. No.
17 **Q. Why not?**
18 A. Simply put Joe Nofi was a goof
19 ball. You know, he was a nice guy, but he was
20 just a goof ball. I mean paperwork was shoddy 15:25:16
21 at best. Summonses were horrible, illegible,
22 illiterate. And then if somebody was walking
23 in front of him and he was not wearing a
24 shirt, which is another one of our silly laws
25 in town, he wouldn't walk up to the guy and 15:25:37

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1 Hesse
2 just say excuse me, sir, you can't walk around
3 without a shirt on. He would say hey asshole,
4 come here. That is what he would do.
5 I would have to tell him, counsel 15:25:46
6 him, Joe, don't talk to people like that. Go
7 over, excuse me, sir, this is what you need to
8 do. Same thing when it pertained to anything,
9 he would act the same way all the time. I did
10 not want it to continue under my command. 15:26:02
11 **Q. Let me ask you, you said something**
12 **about Joe Nofi's -- was it Joe Nofi's**
13 **summonses were illiterate or that Joe Nofi was**
14 **illiterate?**
15 A. The summonses. 15:26:12
16 **Q. Then let me ask you this. Did you**
17 **ever advise Paradiso, hey, you know what, I**
18 **don't think Nofi should be rehired for the**
19 **next season because of how he treated the**
20 **public in your opinion? 15:26:31**
21 A. Specifically no. Every year we
22 were shorthanded, so we had to work with what
23 we had.
24 **Q. Same question with regard to Lamm,**
25 **did you ever speak to Paradiso about perhaps 15:26:41**

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1 Hesse
2 **Paradiso not rehiring Lamm for the season?**
3 A. Not specifically, no.
4 **Q. For the same reason as Nofi?**
5 A. Yes. We just of went season to 15:26:53
6 season with what we had.
7 **Q. Did Paradiso ever ask you your**
8 **opinion as to -- take a step back.**
9 **With regard to rehiring anyone for**
10 **any particular season did Paradiso ever ask 15:27:05**
11 **you what your opinion was with regard to a**
12 **particular officer?**
13 A. Not that I recall, no.
14 **Q. Let's talk about Carter. Was**
15 **Carter the type of officer that you would have 15:27:16**
16 **been comfortable with on your department given**
17 **the changes that you were going to make?**
18 A. No.
19 **Q. Why not?**
20 A. You know, he was kind of hidy 15:27:26
21 tidy, talks out of both side of his mouth
22 between cops. You know, he just kind of
23 rubbed me the wrong way sometimes, and I just,
24 you know, the thing with the sleeping on duty,
25 bragging about it. I would relieve him in the 15:27:43

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1 Hesse
2 morning, his hair is standing straight up.
3 Yeah, as soon as I got in I went upstairs, I
4 went to sleep.
5 You know, enough, I just didn't 15:27:52
6 want to deal with it any more. I felt moving
7 forward he just wasn't a good candidate to
8 keep on.
9 **Q. How about Snyder, was he the type**
10 **of officer that you would have been 15:28:02**
11 **comfortable with in your department given the**
12 **changes that you wanted to make?**
13 A. You know Snyder was a difficult
14 decision for me. Personally I always liked
15 Tommy. We always got along, I thought we 15:28:15
16 worked pretty well together. But he had -- he
17 had some issues. He had some personal issues
18 which he rarely ever discussed with me, or
19 maybe he discussed it with other members of
20 the department, but he seemed towards the end 15:28:30
21 to start being angry a lot. Whether it was
22 with himself or his other job or members of
23 our department. So I thought moving forward
24 maybe it was best that he just moved on and
25 stayed at his full-time job. 15:28:49

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1 Hesse
2 **Q. What were those personal issues?**
3 A. I think he was sick for a while.
4 He had maybe some issues with his kids,
5 ex-wives, I don't know if he has one or two. 15:28:59
6 Money issues. Everybody has issues in their
7 personal lives, you know.
8 **Q. Let me ask you this. We now -- in**
9 **January at some point in time you were**
10 **actually appointed. At some point in time 15:29:18**
11 **prior to the actual appointment you knew you**
12 **were going to be Acting Chief?**
13 A. Uh-hum.
14 **Q. At that point in time when you**
15 **knew that you were going to become Acting 15:29:29**
16 **Chief did you schedule Lamm for any part-time**
17 **shifts?**
18 A. You know, Lamm was working for the
19 Town of Islip Airport security, police,
20 whatever, I don't know what they call 15:29:45
21 themselves right now, law enforcement. I was
22 really unaware of what his plans were, what he
23 wanted to do. There was never any
24 communication between me and him. I called
25 him once for his weapon because I needed to 15:29:59

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1 Hesse
2 issue it to somebody else so he can get
3 qualified because I was short weapons. And
4 you think he would have said something to me
5 then about his other job. 15:30:10
6 But he didn't work for us for I
7 think it was eight or nine months. So I
8 wasn't sure if he was going to plan on coming
9 back or what. But then I just decided that
10 maybe it was best that he just moved on anyway 15:30:28
11 with all the other issues.
12 **Q. What do you mean he had not worked**
13 **for you for eight or nine months?**
14 A. I guess he must have said
15 something to Ed Paradiso about getting this 15:30:33
16 full-time job because there was an academy
17 involved, there was training and there was a
18 full-time job that he had received.
19 **Q. Okay.**
20 A. So he was not scheduled for 15:30:42
21 anything for us.
22 **Q. To your knowledge was he scheduled**
23 **to work at all in August or September of 2005?**
24 A. I don't recall. I would have to
25 look at a schedule from back then. 15:30:51

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Hesse

Q. How about Fiorillo, from the time that you became aware of the fact that you were going to become the Acting Chief did you schedule Fiorillo for any part-time shifts? 15:31:05

A. I think he worked two tours because I was strapped for guys, I didn't have anybody available to work. But they might have been like either Christmas or Christmas Eve and New Years or New Year's Eve. But I don't think subsequent to that there was any.

Q. Why didn't you schedule him?

A. Because I really didn't prefer him to be on shift.

Q. How about Nofi, same question? 15:31:30

A. He may have worked one tour that entire winter. But, you know, I was inclined to give the tours to the guys that could work alone and seniority.

Q. What do you mean that could work alone? 15:31:48

A. At that time of year there is one cop on per shift.

Q. What was your concern about Nofi working alone? 15:31:55

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Hesse

MR. GOODSTADT: Objection.

Q. What concerns did you have if any with regard to assigning Nofi a shift during the winter when he would be working alone? 15:32:03

A. Well if something happened you got to know who to call, where to call, what radio to use, what channel. There is a lot of variables. So you know I really never thought that he was capable of being alone.

Q. You said you rather give it to people with seniority?

A. Seniority.

Q. You mean seniority with Ocean Beach or seniority in terms of police force experience? 15:32:25

A. Seniority with Ocean Beach.

Q. So who did you give the majority of the shifts to between the time that you became or you learned that you were going to be Acting Chief and the beginning of the season; when I say shifts, I mean part-time shifts? 15:32:34

A. That is funny, I would have to look at a schedule. But I was in the process,

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Hesse

but I may have hired Paul Trosko full-time. So he was working full-time. I was working full-time. I know Walter Muller was on the schedule. I am trying to think who else I had.

You know, Carter could work by himself. Tommy Snyder was on by himself on the midnights. Specifically, you know, I don't recall right now anybody else, I would have to really look at a schedule.

Q. As you can tell from the complaint there is a lot of allegations about the Bosetti's?

A. Yes. 15:33:36

Q. So I feel obligated to ask you about them. Describe for me your opinion of the Bosetti's -- of Gary Bosetti, let's start with him, as a police officer for Ocean Beach, independent of whatever he did for the city? 15:33:52

A. Okay. Police officer for Ocean Beach, and I said this for a long time about Gary and Richie both, that when they came on that they changed, they started to help change the persona of the Police Department. Kinder,

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Hesse

friendlier, approachable. They were easily approachable. Anybody can talk to them about any issue that they had, and they would relay that information on to either myself or Ed Paradiso.

As far as their work, their performance, you know, they were not summons writers by any means. They wrote one, two, three when they actually had to. But there were times where because of them we solved a burglary or two or three because people would trust them and be able to come up to them and give them the information that the Police Department needed to make an arrest or, you know...

Q. What is the basis for your opinion that the people of Ocean Beach trusted Gary and Richie Bosetti?

A. Everybody would come up to me and say they are so nice, they are great officers. It is nice to have somebody that we can talk to if there is an issue. I mean the community just loved them.

Q. Did people come up and tell you 15:35:18

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1 Hesse
2 how much they loved Kevin Lamm?
3 A. No.
4 Q. Did people come up to you and tell
5 you how much they liked or loved Frank 15:35:27
6 Fiorillo?
7 A. No.
8 Q. Joe Nofi?
9 A. No.
10 Q. Ed Carter? 15:35:33
11 A. No.
12 Q. Tom Snyder?
13 A. No.
14 Q. Correct me if I am wrong, none of
15 the five plaintiffs here have ever been a 15:35:41
16 full-time police officer?
17 MR. CONNOLLY: Objection.
18 MR. GOODSTADT: Objection.
19 Q. Let me ask you. To your knowledge
20 was Frank Fiorillo ever a full-time police 15:35:50
21 officer for any jurisdiction other than Ocean
22 Beach?
23 A. No.
24 Q. To your knowledge was Joe Nofi
25 ever a full-time police officer for any 15:36:00

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1 Hesse
2 jurisdiction other than Ocean Beach?
3 A. No.
4 Q. And same question with regard to
5 Snyder? 15:36:08
6 A. No.
7 Q. Lamm?
8 A. No.
9 Q. Carter?
10 A. No. 15:36:15
11 Q. And they were not -- none of the
12 plaintiffs were full-time for Ocean Beach
13 either; correct?
14 A. Correct.
15 Q. They were just either part-time 15:36:21
16 when it was off season?
17 A. Correct.
18 Q. Or seasonal?
19 A. Yes.
20 Q. And how many hours did a typical 15:36:26
21 police officer work on a weekly basis during
22 the season?
23 MR. GOODSTADT: Objection.
24 A. During the season?
25 Q. Yes. 15:36:36

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1 Hesse
2 A. They could work one shift a week,
3 to 40 hours plus a week.
4 Q. So it varied?
5 A. It varied. 15:36:42
6 Q. Depending on the schedules of the
7 particular officers?
8 A. Correct.
9 Q. Now to your knowledge how many
10 years experience did Gary Bosetti have? 15:37:00
11 A. At the time he came to Ocean
12 Beach?
13 Q. Yes.
14 A. At least a minimum of 20.
15 Q. Mr. Goodstadt asked you a lot of 15:37:08
16 questions about them not being certified by
17 Suffolk County.
18 A. Correct.
19 Q. Given their experience with the
20 New York City -- let's talk about Gary 15:37:19
21 Bosetti. Given Gary Bosetti's experience with
22 the New York City Police Department were you
23 ever concerned that the public safety was at
24 risk because they were not certified by
25 Suffolk County? 15:37:30

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1 Hesse
2 A. No.
3 Q. Same question about Richie?
4 A. No.
5 Q. Same question about -- was Ty 15:37:35
6 Bacon certified?
7 A. He was. There was a mix up with
8 his paperwork.
9 Q. Did you have any concern with
10 regard to any officer that was not certified 15:37:49
11 with regard to the public safety of Ocean
12 Beach?
13 A. No.
14 Q. Let's talk about Ty Bacon. What
15 type of police officer was he? 15:37:59
16 A. A good man, an honorable man,
17 takes a lot of pride in his job. Good with
18 the community. Good with the public.
19 Q. As between the Bosetti's and the
20 five plaintiffs, who had -- who would you say 15:38:14
21 was the better police officer?
22 MR. GOODSTADT: Objection.
23 A. In my opinion the Bosetti brothers
24 were better police officers.
25 Q. And were the Bosetti's the type of 15:38:27

Page 783

1 Hesse
2 officers that you wanted to have in your
3 kinder and gentler Police Department?
4 A. Yes.
5 Q. How about Ty Bacon? 15:38:38
6 A. Yes.
7 Q. Let's go back to the Halloween
8 incident, I am just going through my notes
9 from this morning to see. Now Mr. Goodstadt
10 asked you some questions about your 15:39:00
11 communications with Frank Fiorillo, and
12 Fiorillo I think you indicated was angry when
13 you -- was angry when you gave him the results
14 of your investigation?
15 A. No. 15:39:13
16 Q. Who was that?
17 A. Kevin Lamm.
18 Q. Kevin Lamm was angry. Now was it
19 Kevin Lamm who said are we going to sweep this
20 under the rug as well? 15:39:22
21 A. Yes.
22 Q. Did Lamm ask, advise you as to
23 what he meant by as well with regard to
24 sweeping something under the rug?
25 A. No. 15:39:32

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1 Hesse
2 Q. Are you aware of anything that you
3 swept under the rug?
4 A. No.
5 MR. GOODSTADT: Objection. 15:39:36
6 Q. To your knowledge did Lamm go to
7 Chief Paradiso with his concerns that I guess
8 the Halloween incident was being swept under
9 the rug?
10 A. I don't know. 15:39:51
11 Q. Did Chief Paradiso ever advise you
12 that he thought it was being swept under the
13 rug?
14 A. No. Never.
15 Q. When did Lamm start working for 15:40:02
16 Ocean Beach?
17 A. Late 90s.
18 Q. Now, Mr. Goodstadt asked you some
19 questions about Gary Bosetti leaving the scene
20 of Hauser's Bar at some point in time after 15:40:18
21 the altercation. Do you recall those
22 questions
23 A. Yes.
24 Q. And I believe you said that Richie
25 Bosetti told you that his brother was dazed? 15:40:32

Page 785

1 Hesse
2 A. Yes.
3 Q. Now in your opinion, I think Mr.
4 Goodstadt asked you this question, if he
5 didn't he will object, do you find it strange 15:40:39
6 that someone -- even an off duty police
7 officer who was involved in a physical
8 altercation when he was attacked by no less
9 than two individuals and who was dazed and
10 hurt, would have left the scene; do you find 15:40:53
11 that strange?
12 MR. CONNOLLY: Objection.
13 MR. GOODSTADT: Objection.
14 A. No, I don't find that strange, no.
15 Q. Why don't you find that strange? 15:41:00
16 A. I think he wanted to go lay down.
17 I believe Richie had told me that he advised
18 him to go and go lay down.
19 Q. So if I understand you correctly,
20 at least according to Richie, Richie told you 15:41:13
21 that he told his brother to leave and go lay
22 down?
23 A. Correct.
24 Q. Now, Mr. Goodstadt asked you some
25 questions about whether or not you disciplined 15:41:46

Page 786

1 Hesse
2 Gary Bosetti for leaving the scene or doing
3 anything as it related to the Halloween
4 incident when he was off duty, do you recall
5 that? 15:42:03
6 A. Yes.
7 Q. Could you have disciplined Gary
8 Bosetti for something that he did while he was
9 off duty?
10 A. Yes. 15:42:09
11 Q. Is there a policy at Ocean Beach
12 that talks about disciplining off duty police
13 officers?
14 MR. GOODSTADT: Objection.
15 A. At that time? 15:42:18
16 Q. Yes.
17 A. I don't believe we had any
18 policies.
19 Q. Now Mr. Goodstadt asked you a
20 number of questions about your opinion of the 15:42:32
21 Lamm, Snyder, Fiorillo accounts of what went
22 on, do you recall that?
23 A. Yes.
24 Q. And those accounts were based upon
25 solely the accounts of the alleged victims; am 15:42:45

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1 Hesse
2 I correct?
3 A. Correct.
4 MR. GOODSTADT: Objection.
5 Q. And you said you believed that the 15:42:54
6 victims, the alleged victims' statements to
7 the three officers that night were lies, do
8 you recall that?
9 A. Yes.
10 Q. Did you initially believe that 15:43:02
11 they were lies when you first read them?
12 A. No.
13 Q. At what point in time did you come
14 to the conclusion that what Van Koot, Schalik
15 and I think Tesori stated to Lamm, Snyder 15:43:13
16 and/or Fiorillo that evening were lies?
17 A. When I spoke to Budd Jaeger and
18 Jean Jaeger.
19 Q. And why did what Jean and/or Budd
20 Jaeger say to you cause you to now believe 15:43:26
21 that what Schalik, Tesori and Van Koot said
22 were lies?
23 A. Put a whole different perspective
24 on what we believed happened.
25 Q. What was the different 15:43:39

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1 Hesse
2 perspective?
3 A. Instead of Gary Bosetti just going
4 berserk in a bar in a drunken rage hitting
5 people in the bar with a pool stick, there 15:43:49
6 were other elements leading up to Mr. Gary
7 Bosetti defending himself and a third person
8 with the pool stick.
9 Q. Was your opinion that the initial
10 three statements -- was it your opinion that 15:44:03
11 the accounts given by Tesori, Schalik and Van
12 Koot were lies, was that reinforced when you
13 received subsequent statements from other
14 witnesses?
15 A. Yes. 15:44:20
16 Q. I know I'm flipping back, so I
17 apologize. Let's go back to the April 2006
18 time period. You had various police officers,
19 you asked them to come to the beach?
20 A. Yes. 15:44:52
21 Q. You advised four of the plaintiffs
22 that they were not going to be rehired. The
23 rest presumably if I am correct were going to
24 be rehired; right?
25 A. Yes. 15:45:00

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1 Hesse
2 Q. Other than Mr. Snyder?
3 A. Yes.
4 Q. Did you notify the village at any
5 point in time after April 2nd as to those 15:45:08
6 officers that were going to be hired for the
7 2006 season, or did they just show up when the
8 season started and say here I am?
9 A. There was no notification made
10 that they were going to be rehired. They 15:45:23
11 basically got scheduled and started to work.
12 Q. How did the village know to pay
13 them?
14 A. I believe that twice, there is two
15 times a year that Civil Service sends out a 15:45:32
16 form that needs to be filled out by the
17 village that states which officers will be
18 working, and it gets verified by me, sent back
19 to the village office and sent on.
20 Q. So at some point in time there is 15:45:45
21 a communication between you and the Village
22 Clerk's office as to which officers were being
23 hired for the 2006 season?
24 A. Yes.
25 Q. Did Mayor Rogers ever advise you 15:45:57

Page 790

1 Hesse
2 that she needed to approve which officers for
3 the 2006 season were going to be rehired?
4 A. No.
5 Q. Did Trustee Loeffler ever advise 15:46:06
6 you that he needed to approve of who you
7 rehired for the 2006 season?
8 A. No.
9 Q. Were you aware that you needed to
10 run the names by either Mayor Rogers or 15:46:18
11 Loeffler?
12 A. I was never told that I had to do
13 that.
14 Q. Or any trustee?
15 A. No. 15:46:24
16 Q. To your knowledge did Paradiso
17 when he made the decision have to run the
18 names of the people that were being hired for
19 the particular season by either the mayor or
20 the trustees? 15:46:36
21 A. I was unaware.
22 Q. Did Mayor Rogers ever advise you
23 that you acted improperly by not clearing the
24 seasonal police officer staff with her first?
25 A. No. 15:46:49

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1 Hesse
2 **Q. How about any trustee?**
3 A. No.
4 **Q. Now, you discussed with Mr.**
5 **Goodstadt on the first day of your testimony 15:47:58**
6 **with regard to certain comments that Mayor**
7 **Rogers said with regard to Mr. Paradiso. Do**
8 **you recall being asked certain of those**
9 **questions?**
10 A. Vaguely. 15:48:11
11 **Q. Do you recall being advised that**
12 **Ms. Rogers believed that there was some**
13 **liabilities with regard to Chief Paradiso?**
14 A. Vaguely.
15 **Q. What did you mean by liabilities; 15:48:21**
16 **you would have to know what the question was?**
17 A. Yes, I would need to hear it.
18 **Q. Okay.**
19 **Well let me be more specific. I**
20 **believe you testified and correct me if I am 15:48:34**
21 **wrong that Mayor Rogers expressed some**
22 **disappointment with the chief when you spoke**
23 **to her concerning the notice of claim?**
24 MR. GOODSTADT: Objection.
25 **Q. Did you ever speak to Mayor Rogers 15:48:45**

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1 Hesse
2 **about the notice of claim?**
3 A. Yes.
4 **Q. And in that conversation did you**
5 **have -- did you discuss Chief Paradiso? 15:48:53**
6 A. Yes.
7 **Q. What did Mayor Rogers say to you**
8 **concerning Chief Paradiso at that time?**
9 A. I just remember her being unhappy
10 with the way he ran things. 15:49:04
11 **Q. Do you recall specifically what**
12 **Mayor Rogers said?**
13 A. Off the top of my head right now,
14 no.
15 **Q. Radio codes, again Mr. Goodstadt 15:49:12**
16 **asked you and you rolled your eyes, Mr.**
17 **Goodstadt asked you some questions about radio**
18 **codes?**
19 A. Yes.
20 **Q. Did Mr. Nofi ever advise you that 15:49:42**
21 **he had issued a 10-1 and that any police**
22 **officer failed to respond to the 10-1?**
23 A. He never complained, no.
24 **Q. Did he ever say anything to you,**
25 **even if it was not a complaint, that he had 15:49:58**

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1 Hesse
2 **issued a 10-1 and no one came to assist him?**
3 A. No.
4 **Q. Did you ever hear a rumor prior to**
5 **seeing this lawsuit that Joe Nofi had issued a 15:50:07**
6 **10-1 and no one came to help him?**
7 A. No.
8 **Q. Did you ever receive a**
9 **communication, I am not even talking about a**
10 **complaint now, did you ever receive a 15:50:25**
11 **communication from any police officer that**
12 **another police officer didn't know a radio**
13 **code?**
14 MR. GOODSTADT: Objection.
15 A. No. 15:50:38
16 **Q. Did you ever receive a**
17 **communication from any resident of Ocean Beach**
18 **that the police didn't respond to something**
19 **involving that particular resident because a**
20 **particular officer did not know the right 15:50:54**
21 **radio code?**
22 MR. GOODSTADT: Objection.
23 A. No.
24 **Q. Let me ask you something. Was it**
25 **appropriate for a police officer at Ocean 15:51:07**

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1 Hesse
2 **Beach while in uniform to go into a private**
3 **residence, sit down and drink a beer?**
4 A. Would it be inappropriate?
5 **Q. Yes. 15:51:22**
6 A. In my opinion yes.
7 **Q. While they were on duty in**
8 **uniform?**
9 A. Absolutely, yes.
10 **Q. How about if they went into a 15:51:28**
11 **resident's house, had a woman sit on his lap,**
12 **drink a beer and have a picture taken?**
13 A. It is inappropriate.
14 MR. GOODSTADT: I think we are --
15 you have no foundation that they even 15:51:49
16 drank a beer. No foundation.
17 MR. NOVIKOFF: Okay. You could
18 have objected to form.
19 MR. GOODSTADT: You are asking
20 hypotheticals. 15:51:59
21 MR. NOVIKOFF: That is true.
22 MR. GOODSTADT: If you mentioned
23 one of my clients then maybe I would have
24 said objection. But you are speaking
25 hypothetically. 15:52:07

Page 795

1 Hesse
 2 MR. NOVIKOFF: Well it is what it
 3 is.
 4 **Q. In response to I think Mr.**
 5 **Goodstadt's question again on the radio codes, 15:52:22**
 6 **I think you said that the officers always**
 7 **spoke the codes as well as plain talk, do you**
 8 **recall that?**
 9 A. Yes.
 10 **Q. What does plain talk mean? 15:52:33**
 11 A. Basically what we are doing now.
 12 Just talking to each other. Just give him the
 13 type of call it was, you know, for what it
 14 was.
 15 **Q. Give me an example? 15:52:42**
 16 A. Like we get a complaint of noise
 17 somewhere. So the dispatcher would pick up
 18 the radio, he would assign it to an officer.
 19 The officer would respond and he would say, we
 20 have a 10-17, noise complaint at 668 Ocean 15:52:53
 21 Breeze.
 22 **Q. Okay. Flipping back a little bit,**
 23 **sorry, I don't think I asked you this**
 24 **question.**
 25 **Did Lamm or any other officer ever 15:53:04**

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1 Hesse
 2 **advise you that people dumped beer near them**
 3 **when they were walking on the beach?**
 4 A. We had an incident.
 5 **Q. What is that incident? 15:53:18**
 6 A. We had an incident that Kevin Lamm
 7 and Tommy Snyder were standing on a foot post
 8 and Ocean Breeze and Bay Walk, and some punk
 9 took a beer, poured it down the ledge of the
 10 building and it dripped on to Tom Snyder. 15:53:35
 11 **Q. Now there is an allegation in the**
 12 **complaint about beer being thrown from a**
 13 **second or third floor story near Mr. Lamm. Do**
 14 **you recall seeing that?**
 15 A. The complaint? 15:53:50
 16 **Q. Yes.**
 17 A. Yes.
 18 **Q. To your understanding is that the**
 19 **incident that you are discussing?**
 20 A. That is the only one that I know 15:53:57
 21 of.
 22 **Q. Was the allegations in the**
 23 **complaint about that incident accurate?**
 24 MR. GOODSTADT: Objection.
 25 A. It was exaggerated. 15:54:06

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1 Hesse
 2 **Q. How was it exaggerated?**
 3 A. I need you to read it to me so I
 4 can --
 5 **Q. Let me go find it. You know what, 15:54:15**
 6 **let me mark the following complaint because I**
 7 **just want to make sure that we covered the**
 8 **allegations. I apologize, I tried to do it a**
 9 **little expeditiously and I don't want to mess**
 10 **it up. 15:54:59**
 11 MR. CONNOLLY: While this is being
 12 marked let's go off the record.
 13 THE VIDEOGRAPHER: The time is
 14 3:56, we are off the record.
 15 (Recess taken.) 15:55:08
 16 THE VIDEOGRAPHER: The time is
 17 4:05, we are on the record.
 18 MR. NOVIKOFF: We are going to
 19 stop the deposition today after all
 20 counsel have had a discussion off the 16:03:28
 21 record. We are going to continue with
 22 the deposition of Mr. Hesse and hopefully
 23 complete it on August 17th.
 24 We are confirmed for Mr. Carollo
 25 at this office here at 2 o'clock next 16:03:43

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1
 2 Tuesday, and counsel will discuss the
 3 briefing schedule either tomorrow or
 4 early next week.
 5 MR. GOODSTADT: No objection. 16:03:53
 6 MR. CONNOLLY: With the request
 7 being that if he pushed back one week
 8 subject to court consent.
 9 MR. NOVIKOFF: Okay.
 10 THE VIDEOGRAPHER: The time is 16:04:03
 11 4:05. We are off the record.
 12 (Time noted: 4:05 p.m.)
 13
 14 _____
 15 GEORGE HESSE
 16
 17 Subscribed and sworn to before me
 18 this ____ day of _____, 2009
 19 _____
 20
 21
 22
 23
 24
 25

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, Philip Rizzuti, a Notary
Public within and for the State of New
York, do hereby certify:

That GEORGE HESSE, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 18th day of
August, 2009.

PHILIP RIZZUTI

Hesse Exhibit 22, internal 569
correspondence, December 10,
2004,
Hesse Exhibit 23, typewritten 577
document dated 11/5/04 to George
Hesse,
Hesse Exhibit 24, internal 588
correspondence, November 7,
2004,
Hesse Exhibit 25, Ocean Beach 599
Police Department, document
dated 11/5/2004,
Hesse Exhibit 26, incident 604
report, 12/11/2004,
Hesse Exhibit 27, letter dated 612
March 11, 2006,
Hesse Exhibit 28, Employment, 664
Collier County Sheriff's Office,
Employment Reference Prior
Experience,

----- I N D E X -----

WITNESS	EXAMINATION BY	PAGE
GEORGE HESSE	Mr. Goodstadt	491
	Mr. Novikoff	679

----- INFORMATION REQUESTS -----

DIRECTIONS: None
RULINGS: None
TO BE FURNISHED: None
REQUESTS: 619, 638
MOTIONS: None

----- EXHIBITS -----

Hesse Exhibit 17, photocopy of 524
photographs,
Hesse Exhibit 18, incident 529
report,
Hesse Exhibit 19, handwritten 543
statement, November 1, 2004,
Hesse Exhibit 20, handwritten 554
statement, November 2, 2004,
Hesse Exhibit 21, internal 562
correspondence, November 12,
2004,

*** ERRATA SHEET ***

NAME OF CASE: CARTER VS. OCEAN BEACH
DATE OF DEPOSITION: August 6, 2009
NAME OF WITNESS: GEORGE HESSE
PAGE LINE FROM TO

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GEORGE HESSE

Subscribed and sworn to before me
this ____ day of _____, 2009.

(Notary Public) My Commission Expires:

Page 803

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDWARD CARTER, FRANK FIORILLO,)
KEVIN LAMM, JOSEPH NOFI and)
THOMAS SNYDER,)
Plaintiffs,)
vs.) CV 07 1215

INCORPORATED VILLAGE OF OCEAN)
BEACH; MAYOR JOSEPH C. LOEFFLER)
JR., individually and in his)
Official capacity; former Mayor)
NATALIE K. ROGERS, individually)
and in her official capacity,)
OCEAN BEACH POLICE DEPARTMENT;)
ACTING DEPUTY POLICE CHIEF)
GEORGE B. HESSE, individually)
And in his official capacity;)
SUFFOLK COUNTY; SUFFOLK COUNTY)
POLICE DEPARTMENT, SUFFOLK)
COUNTY DEPARTMENT OF CIVIL)
SERVICE; and ALLISON SANCHEZ,)
Individually and in her)
Official capacity,)
Defendants.)
-----)

CONTINUED VIDEOTAPED DEPOSITION OF
GEORGE HESSE
Uniondale, New York
Monday, August 17, 2009

Reported by:
Philip Rizzuti
JOB NO. 24185

Page 805

1
2 APPEARANCES:

3
4 THOMPSON WIGDOR & GILLY, LLP
5 Attorneys for Plaintiffs
6 85 Fifth Avenue
7 New York, New York 10003
8 BY: ANDREW S. GOODSTADT, ESQ.

9
10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.
11 Attorneys for George B. Hesse
12 530 Saw Mill Road
13 Elmsford, New York 10523
14 BY: KEVIN W. CONNOLLY, ESQ.

15
16 RIVKIN RADLER, LLP
17 Attorneys for Incorporated Village of
18 Ocean Beach, Joseph Loeffler, Natalie
19 Rogers and Ocean Beach Police Department
20 926 RexCorp Plaza
21 Uniondale, New York 11556-0926
22 BY: KENNETH A. NOVIKOFF, ESQ.

Page 804

1
2
3 August 17, 2009
4 10:22 a.m.

5
6 Continued videotaped deposition
7 of GEORGE HESSE, held at the offices
8 of Rivkin Radler, 926 Rexcorp Plaza,
9 Uniondale, New York, pursuant to
10 subpoena, before Philip Rizzuti, a
11 Notary Public of the State of New York

Page 806

1
2 APPEARANCES:

3
4 RUDOLPH M. BAPTISTE, ESQ.
5 Assistant County Attorney
6 Suffolk County, State of New York
7 100 Veterans Memorial Highway
8 P.O. Box 6100
9 Hauppauge, New York 11788-4311

10
11 ALSO PRESENT:
12 JORDAN MUMMERT, Videographer
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 807

1 Hesse
 2 MR. NOVIKOFF: Would you mark as
 3 Hesse Exhibit 29, complaint.
 4 (Hesse Exhibit 29, complaint,
 5 marked for identification, as of this 10:08:44
 6 date.)
 7 THE VIDEOGRAPHER: This is the
 8 start of the tape labelled number 1 of
 9 the continuation of George Hesse in the
 10 matter of Carter and Fiorillo versus 10:21:20
 11 Incorporated Village of Ocean Beach. The
 12 date is August 17th. The time is 10:22
 13 a.m., we are on the record.
 14 G E O R G E H E S S E, called as a
 15 witness, having been duly sworn by a 10:21:33
 16 Notary Public, was examined and
 17 testified as follows:
 18 EXAMINATION BY
 19 MR. NOVIKOFF:
 20 Q. Good morning Mr. Hesse. 10:21:35
 21 A. Good morning.
 22 Q. How are you, welcome back for your
 23 fourth day. Hopefully we will be out of here
 24 by noon. Where I left off with you was we
 25 were going to start going through some of the 10:21:42

Page 808

1 Hesse
 2 allegations in the complaint.
 3 In front of you is what has been
 4 pre-marked as Exhibit 29. I have left a copy
 5 of Deposition Exhibit 29 for all counsel. I 10:21:51
 6 would ask you to turn your attention to page
 7 9, paragraph 32. In paragraph 32 plaintiffs
 8 allege in part that you allowed your allies on
 9 the force to spend their shifts drinking at
 10 local bars while in uniform and officially on 10:22:28
 11 duty.
 12 Did you ever allow any officers to
 13 drink in local bars while in uniform and
 14 officially on duty?
 15 A. No. 10:22:39
 16 Q. Plaintiffs then go on to allege in
 17 paragraph 32 that you instructed other
 18 officers under your command including the
 19 plaintiffs to neglect their own duties in
 20 order to chauffeur their intoxicated 10:22:56
 21 colleagues both inside and out of Ocean Beach.
 22 Did you ever order the plaintiffs
 23 to chauffeur intoxicated police officers
 24 around Ocean Beach?
 25 A. No. 10:23:10

Page 809

1 Hesse
 2 Q. How about outside of Ocean Beach?
 3 A. No.
 4 Q. Paragraph 33 plaintiffs allege in
 5 part that you encouraged and enabled on-duty 10:23:18
 6 officers to drink alcohol in the police
 7 station.
 8 Sir, did you ever encourage or
 9 enable any on-duty officers to drink alcohol
 10 in the police station? 10:23:31
 11 A. No.
 12 Q. Plaintiffs allege that you would
 13 collect money to have these on-duty police
 14 officers have Rocket Fuel in the police
 15 station. 10:23:45
 16 Sir, did you ever collect money so
 17 that on-duty police officers could drink
 18 Rocket Fuel in the police station?
 19 A. No.
 20 Q. Let's look at paragraph 35. 10:23:55
 21 Plaintiffs allege in part that you hired
 22 civilians as police dispatchers.
 23 Did you, Mr. Hesse, hire civilians
 24 to be civil dispatchers?
 25 A. I didn't hire anybody at that 10:24:17

Page 810

1 Hesse
 2 time, no.
 3 Q. Paragraph 36. Plaintiffs allege
 4 that each one of them advised you on numerous
 5 occasions that the department and the village 10:24:30
 6 were left dangerously short of personnel while
 7 plaintiffs were assigned to chauffeur
 8 intoxicated officers and their civilian
 9 friends.
 10 Let me ask you this question, 10:24:42
 11 putting aside the fact as to whether or not
 12 you ordered anyone to chauffeur anyone, I
 13 think you have spoken about that, did any of
 14 the plaintiffs ever complain to you about the
 15 subject of they having to chauffeur anyone 10:24:55
 16 within or without of Ocean Beach?
 17 A. No.
 18 Q. Did they ever complain to you that
 19 anything you did left the village dangerously
 20 short of police personnel? 10:25:13
 21 A. Never.
 22 Q. Did they ever complain to you that
 23 they personally witnessed on-duty police
 24 officers drinking while in uniform in an Ocean
 25 Beach bar? 10:25:34

2 (Pages 807 to 810)

Page 811

1 Hesse
2 A. Never.
3 Q. Let's look at the next page,
4 paragraph 39. Plaintiffs allege in part that
5 you allowed uncertified officers to assign 10:25:49
6 dock masters to cover their shifts at the
7 Ocean Beach Police Department.
8 Did you ever allow uncertified
9 officers to assign dock masters to cover
10 shifts at the Ocean Beach Police Department? 10:26:07
11 A. Never.
12 Q. Did you ever allow any officer to
13 assign a dock master to cover shifts at the
14 Ocean Beach Police Department?
15 A. No. 10:26:19
16 Q. Paragraph 40. Plaintiffs allege
17 in part that you allowed uncertified officers
18 to drink beer while patrolling in police
19 vehicles.
20 Assuming that it really doesn't 10:26:33
21 matter whether someone is uncertified or
22 certified with regard to drinking in police
23 vehicles, let me ask you this question. Did
24 you ever allow any officers to drink beer
25 while patrolling in police vehicles? 10:26:44

Page 812

1 Hesse
2 A. Never.
3 Q. Did any of the plaintiffs ever
4 advise you that they were aware that any
5 officer was drinking a beer in a police 10:26:51
6 vehicle while on duty?
7 A. Never.
8 Q. Would you tell officers what types
9 of beer to confiscate?
10 A. No. 10:27:06
11 Q. Did the plaintiffs ever complain
12 to you about you -- about the subject of you
13 confiscating beer improperly?
14 A. No.
15 Q. Did the plaintiffs ever complain 10:27:24
16 to you about any officers drinking the
17 confiscated beer?
18 A. Never.
19 Q. Paragraph 41. Plaintiffs allege
20 that you instructed them to remove empty beer 10:27:43
21 cans and other refuse that uncertified
22 officers abandoned in their vehicles and left
23 strewn about the police station after a night
24 on duty.
25 Did you ever instruct plaintiffs 10:27:58

Page 813

1 Hesse
2 to remove empty beer cans and other garbage
3 left by any other officer in the police
4 station?
5 A. No. 10:28:08
6 Q. Did they ever complain to you that
7 they felt that they were required by you to
8 pick up beer cans and garbage left by other
9 officers in the police station?
10 A. Never. 10:28:17
11 Q. Let's go to paragraph 43. Did
12 Officer Snyder -- well, in 43 Officer Snyder's
13 complaint is alleging that on one or more
14 occasions other officers took away his police
15 radio phone. 10:28:39
16 Did Snyder ever complain to you
17 that any other officer would take away his
18 emergency cell phone from him?
19 MR. GOODSTADT: Objection.
20 A. No. 10:28:50
21 Q. Did Snyder ever complain to you
22 that he felt that other officers were
23 mistreating him?
24 A. No.
25 MR. GOODSTADT: Just note my 10:29:04

Page 814

1 Hesse
2 objection to that as well.
3 MR. NOVIKOFF: That question?
4 MR. GOODSTADT: Yes.
5 MR. NOVIKOFF: Okay. 10:29:09
6 Q. Let's look at paragraph 43. Tell
7 me when you are done reading it to yourself?
8 A. Okay.
9 Q. Did Officer Snyder ever complain
10 to you about anything that is referenced 10:29:56
11 within paragraph 43?
12 A. No.
13 Q. Read paragraphs 44 and 45 to
14 yourself please and then tell me when you are
15 done? 10:30:07
16 A. Okay.
17 Q. In now in paragraph 45 Mr.
18 Fiorillo is alleging that you chided him in
19 the presence of Lamm and Nofi with regard to
20 his involvement in an altercation involving an 10:31:04
21 intoxicated off-duty police officer.
22 Did you ever chide Mr. Fiorillo
23 with regard to his involvement in an incident,
24 a physical altercation involving an off-duty
25 police officer? 10:31:23

3 (Pages 811 to 814)

Page 815

1 Hesse
 2 MR. GOODSTADT: Objection.
 3 **Q. As referenced in 44 and 45?**
 4 A. As reference to this, no.
 5 **Q. Do you recall what Mr. -- do you 10:31:27**
 6 **have idea -- do you have an understanding as**
 7 **to what Mr. Fiorillo is referencing in**
 8 **paragraph 44 and 45?**
 9 A. Yes.
 10 **Q. Could you please tell me what he 10:31:35**
 11 **is referencing?**
 12 A. He is referencing an incident that
 13 happened on the South Bay Water Taxi's. We
 14 got a call of a fight on the water taxi. The
 15 fight was between a Dr. Something Guida from 10:31:50
 16 the Good Samaritan Hospital, he was punching
 17 his girlfriend in the face, it was not Police
 18 Officer Walter Muller who he is talking about
 19 here.
 20 Walter Muller identified himself 10:32:07
 21 as a police officer, he was there with his
 22 wife, they were out to dinner that night. He
 23 was not intoxicated. He had taken police
 24 action. One of our civilian dock masters had
 25 jumped on the boat and because of Officer 10:32:19

Page 816

1 Hesse
 2 Fiorillo's actions that civilian also -- the
 3 dock master had gotten hurt.
 4 So when the incident was over we
 5 arrested Dr. Guido for harassment on that 10:32:30
 6 civilian dock master because the confrontation
 7 that they had between them. What happened
 8 later was as a group I yelled at everybody,
 9 especially the civilian dock master for
 10 getting involved in police action. 10:32:48
 11 **Q. Who was the civilian dock master?**
 12 A. Kenny Lappena.
 13 **Q. And when you said because of Mr.**
 14 **Fiorillo's actions the dock master got hurt,**
 15 **what was Mr. Fiorillo's actions that you are 10:32:57**
 16 **referring to?**
 17 A. What happened was because he put
 18 Officer Muller in a head lock and prevented
 19 him from restraining Dr. Guida, Dr. Guida was
 20 aggressive toward the civilian dock master and 10:33:14
 21 he got hurt.
 22 **Q. So let me understand you**
 23 **correctly. Fiorillo put Muller in a head**
 24 **lock?**
 25 A. Yes, he did. 10:33:23

Page 817

1 Hesse
 2 **Q. Did you ever question Fiorillo as**
 3 **to why he did this?**
 4 A. Yes.
 5 **Q. And what did you ask him? 10:33:27**
 6 A. He said he didn't recognize him.
 7 **Q. But what did you ask him; before**
 8 **you tell me what Fiorillo said what**
 9 **specifically did you ask him if you can**
 10 **recall? 10:33:37**
 11 A. I don't remember a specific
 12 question that I asked. But I made a statement
 13 that you better know your officers before you
 14 take action like that.
 15 **Q. Is it usual for one officer to put 10:33:47**
 16 **another officer in a head lock?**
 17 A. Of course not, and the other thing
 18 is Lamm and Nofi were not even on that night
 19 that I believe. I don't remember them being
 20 there. 10:33:57
 21 **Q. Now where would there be a record**
 22 **of what nights, what shifts Lamm and Nofi**
 23 **worked in June of 2002?**
 24 A. I am sure that the village has
 25 provided all the schedules. 10:34:09

Page 818

1 Hesse
 2 **Q. Where would I find it?**
 3 A. On the schedules or maybe copies
 4 of the blotters or something like that.
 5 **Q. Where would there be a record of 10:34:15**
 6 **the arrest of Dr. Guida?**
 7 A. That was definitely turned over.
 8 It is definitely in our files somewhere.
 9 **Q. Let's look at paragraph 46 and 47**
 10 **and 48. Please read those and tell me when 10:34:34**
 11 **you are done?**
 12 A. Okay.
 13 **Q. In 46 Mr. Fiorillo is alleging in**
 14 **part that on one occasion you demanded of him**
 15 **to transport you to a party at a private 10:35:14**
 16 **residence in Ocean Beach.**
 17 **Did you ever demand that Mr.**
 18 **Fiorillo transport you to a private residence**
 19 **in Ocean Beach for the purpose of attending a**
 20 **party? 10:35:25**
 21 A. No.
 22 **Q. Did you ever ask him to transport**
 23 **you to a party on a private residence in Ocean**
 24 **Beach?**
 25 A. Not that I recall. 10:35:32

4 (Pages 815 to 818)

Page 819

1 Hesse
2 **Q. Did you ever require Mr. Fiorillo**
3 **to pick you up from a party at a private**
4 **residence?**
5 A. No. 10:35:45
6 **Q. On Ocean Beach?**
7 A. No.
8 **Q. Let me ask you this question**
9 **because I asked Mr. Paradiso a couple of**
10 **questions. How long would it take to drive 10:35:56**
11 **one of your police vehicles from the north to**
12 **the south part of Ocean Beach?**
13 A. About two minutes.
14 **Q. How about from east and west**
15 **within Ocean Beach? 10:36:06**
16 A. Ten blocks, and they are not
17 regular blocks, there are maybe 200 feet
18 between each block.
19 **Q. So taking a police vehicle from**
20 **east to west, how long would it take to drive? 10:36:16**
21 A. A minute or two.
22 **Q. And north to south?**
23 A. The same.
24 **Q. In paragraph 47 Mr. Fiorillo makes**
25 **some allegations concerning a known drug 10:36:36**

Page 820

1 Hesse
2 **dealer, although he doesn't identify who the**
3 **known drug dealer is anywhere in the**
4 **complaint.**
5 **Mr. Hesse, did Mr. Fiorillo ever 10:36:45**
6 **inquire with you with regard to any**
7 **relationship you have with a drug dealer?**
8 A. No.
9 **Q. Did you ever advise Mr. Fiorillo**
10 **that you have as a close personal friend a 10:36:59**
11 **drug dealer who lives in Ocean Beach?**
12 A. No.
13 **Q. Did you ever forbid Mr. Fiorillo**
14 **from interfering with any drug dealer's**
15 **activity in Ocean Beach? 10:37:16**
16 A. Never.
17 **Q. To your knowledge -- withdrawn.**
18 **Let's go to paragraph 49. Did you**
19 **ever require any of the plaintiffs to**
20 **chauffeur you to various residences within 10:37:38**
21 **Ocean Beach for non-police business?**
22 A. No.
23 **Q. How about outside of Ocean Beach?**
24 A. No.
25 **Q. Let's go to paragraph 50. Read 10:37:49**

Page 821

1 Hesse
2 **paragraph 50 to yourself and advise me when**
3 **you are done reading it.**
4 A. Okay.
5 **Q. Now in paragraph 50 it appears 10:38:16**
6 **that Mr. Fiorillo is alleging in part that you**
7 **interfered in the issuance of a summons by him**
8 **to the son of a business owner in Ocean Beach.**
9 **Do you have any recollection as to**
10 **what Mr. Fiorillo is referring to in paragraph 10:38:35**
11 **50?**
12 A. I have no idea.
13 **Q. Did you ever tear up a summons**
14 **that Fiorillo issued to anybody in Ocean**
15 **Beach? 10:38:44**
16 A. Never.
17 **Q. Let's please read 51 and tell me**
18 **when you are done.**
19 A. Okay.
20 **Q. Did you ever instruct any of the 10:39:13**
21 **plaintiffs not to issue summonses to any bar**
22 **in Ocean Beach?**
23 A. No.
24 **Q. Did you ever advise any of the**
25 **plaintiffs that certain bars should not be -- 10:39:25**

Page 822

1 Hesse
2 **withdrawn.**
3 **Did any of the plaintiffs ever**
4 **complain to you about you selectively**
5 **enforcing the law? 10:39:43**
6 A. No.
7 MR. GOODSTADT: Objection.
8 **Q. Please read 52 and 53 and tell me**
9 **when you are done?**
10 A. Okay. 10:40:00
11 **Q. Now in 52 plaintiffs are alleging**
12 **an incident involving Snyder and Lamm where**
13 **they witnessed a down pure of beer falling at**
14 **their feet. Do you see where they are**
15 **referring to? 10:40:56**
16 A. Yes.
17 **Q. Let's look at 53. According to**
18 **the plaintiffs in 53 you, Mr. Hesse, directed**
19 **Officers Lamm and Snyder not to issue any**
20 **citations or make any arrest with regard to 10:41:12**
21 **these alleged under age individuals drinking**
22 **alcohol in that apartment building.**
23 **Did you ever direct Lamm and**
24 **Snyder not to issue any citations or make any**
25 **arrests to these youths who they say were 10:41:27**

5 (Pages 819 to 822)

<p style="text-align: right;">Page 823</p> <p>1 Hesse</p> <p>2 breaking the law?</p> <p>3 A. No.</p> <p>4 Q. Did Lamm or Snyder ever relay the</p> <p>5 incident to you where they believed that beer 10:41:35</p> <p>6 was thrown at them?</p> <p>7 A. Yes.</p> <p>8 Q. What did they say to you?</p> <p>9 A. Tommy Snyder -- well I was called</p> <p>10 to the scene. Tommy Snyder said that some 10:41:45</p> <p>11 beer had dripped on him, I don't know if it</p> <p>12 was a down pure of beer, but I think he got a</p> <p>13 few drips on his head, because there was some</p> <p>14 intox kid dumping beer down the, I guess the</p> <p>15 slope of the roof and it dripped on to Officer 10:41:59</p> <p>16 Snyder.</p> <p>17 So when I received we went up</p> <p>18 there, we identified the kid, he was 21. His</p> <p>19 father happened to be a lieutenant in Nassau</p> <p>20 County PD. I asked Snyder what do you want me 10:42:14</p> <p>21 to do with this. He said let's just call the</p> <p>22 father, which we did, to let the father know</p> <p>23 what his son just did.</p> <p>24 We went up to the residence where</p> <p>25 the renter of the residence John was on the 10:42:29</p> <p style="text-align: right;">Page 824</p>	<p style="text-align: right;">Page 825</p> <p>1 Hesse</p> <p>2 paraphernalia not being present in that</p> <p>3 apartment. You are referring to the</p> <p>4 allegation in paragraph 52 when the plaintiffs</p> <p>5 alleged that there was an extensive collection 10:43:52</p> <p>6 of such paraphernalia; correct?</p> <p>7 A. Yes.</p> <p>8 Q. It is your testimony that that</p> <p>9 allegation is incorrect?</p> <p>10 A. Correct. 10:43:59</p> <p>11 Q. And it is your position with</p> <p>12 regard to the incidents being described in 52</p> <p>13 and 53 that you asked Tommy Snyder what he</p> <p>14 wanted to do, and Snyder's response was to</p> <p>15 call the father? 10:44:17</p> <p>16 A. That is it.</p> <p>17 Q. Okay. Go to paragraph 54, please</p> <p>18 read it and tell me when you are done.</p> <p>19 A. Okay.</p> <p>20 Q. There has been some confusion 10:44:49</p> <p>21 among some of the witnesses who looked at this</p> <p>22 paragraph. Is 54 in your opinion still</p> <p>23 referring to the same evening in the same</p> <p>24 apartment that 52 and 53 are referring to?</p> <p>25 MR. GOODSTADT: Objection. 10:45:02</p> <p style="text-align: right;">Page 826</p>
<p>1 Hesse</p> <p>2 scene, I forget his last name. We wrote him a</p> <p>3 summons for noise. We did find a small pipe</p> <p>4 for smoking marijuana. There was not</p> <p>5 extensive drugs or drug paraphernalia there. 10:42:46</p> <p>6 There was one pipe that was sitting on a</p> <p>7 counter. There was some empty beer cans</p> <p>8 sitting around.</p> <p>9 I believe John had maybe his</p> <p>10 sister, younger sister and some of her friends 10:43:01</p> <p>11 there which none of them were seen drinking</p> <p>12 any alcohol, because I believe the officers</p> <p>13 had checked because I was dealing with John.</p> <p>14 I confiscated the pipe, I went out to the</p> <p>15 balcony so everybody could see and I threw the 10:43:19</p> <p>16 pipe into the bay. And that was the end of</p> <p>17 the story.</p> <p>18 Q. Now who was the police officer of</p> <p>19 Nassau County?</p> <p>20 A. I don't remember his name. 10:43:26</p> <p>21 Q. What was his title?</p> <p>22 A. He was a lieutenant, I remember</p> <p>23 him being a lieutenant.</p> <p>24 Q. Now you made reference to an</p> <p>25 extensive collection of illicit drug 10:43:38</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. My opinion; it could be. I don't</p> <p>4 know.</p> <p>5 Q. Now did you ever prohibit the 10:45:05</p> <p>6 plaintiffs from investigating any crime that</p> <p>7 took place in that apartment that evening or</p> <p>8 any other evening?</p> <p>9 A. No.</p> <p>10 Q. Did you ever instruct any of the 10:45:16</p> <p>11 plaintiffs to stay away from that apartment</p> <p>12 and not investigate any alleged act of</p> <p>13 criminality?</p> <p>14 A. Never.</p> <p>15 Q. That night or any night 10:45:27</p> <p>16 afterwards?</p> <p>17 A. Never.</p> <p>18 Q. Now in the last sentence of</p> <p>19 paragraph 54 the plaintiffs allege as follows</p> <p>20 and I will quote this: Indeed on another 10:45:39</p> <p>21 occasion plaintiffs even observed certain of</p> <p>22 the uncertified officers on the apartment</p> <p>23 balcony drinking and socializing with the same</p> <p>24 group of minors. Close quote.</p> <p>25 Did any of the plaintiffs ever 10:45:58</p>

6 (Pages 823 to 826)

Page 827

1 Hesse
 2 advise you that they ever saw any other
 3 officer drinking and socializing with anyone
 4 on the balcony of that apartment?
 5 A. Never. 10:46:12
 6 Q. Let's go to paragraph 55, please
 7 read it and tell me when you are done?
 8 A. Okay.
 9 Q. Did you ever encourage minors to
 10 abuse alcohol? 10:46:39
 11 MR. GOODSTADT: Objection.
 12 A. No.
 13 MR. NOVIKOFF: What is the
 14 objection, it is your allegation; in yet
 15 another instance of Hesse encouraging 10:46:46
 16 minors to abuse alcohol, so I am asking
 17 him. So what is the objection?
 18 MR. GOODSTADT: The allegation is
 19 encouraging. I don't know if he has the
 20 same definition that we would have. So 10:46:54
 21 object to the form.
 22 MR. NOVIKOFF: Because you don't
 23 think he has the same definition of what
 24 you have as encouraging?
 25 MR. GOODSTADT: Maybe. 10:47:05

Page 828

1 Hesse
 2 MR. NOVIKOFF: Okay, that is fine.
 3 Q. What is your definition of
 4 encouraging, Mr. Hesse?
 5 A. It could be that I permitted them 10:47:10
 6 or I actually handed them the beer and said
 7 drink it, drink it.
 8 Q. Under any definition that you may
 9 have as to the word encouraging did you ever
 10 encourage minors to abuse alcohol? 10:47:23
 11 A. No.
 12 Q. Did you ever encourage minors to
 13 drink alcohol?
 14 A. No.
 15 Q. Did you ever permit minors to 10:47:31
 16 drink alcohol in your presence?
 17 A. No.
 18 Q. Did you ever condone minors of
 19 drinking alcohol in your presence?
 20 A. No. 10:47:40
 21 Q. Did you ever tell any of the
 22 plaintiffs not to issue summonses to any
 23 minors that they found to be drinking alcohol?
 24 A. No.
 25 Q. Did you ever intervene when 10:47:48

Page 829

1 Hesse
 2 another officer issued a citation to any minor
 3 carrying a case of beer?
 4 A. No.
 5 Q. Did you ever -- are you aware of 10:48:01
 6 any incidents involving any officer issuing a
 7 citation to a minor carrying a case of beer?
 8 A. I know the incident that they are
 9 referring to.
 10 Q. In paragraph 55? 10:48:14
 11 A. Yes.
 12 Q. What is that incident?
 13 A. I believe we talked about it on
 14 one of my other days. There was a kid that
 15 works for CJ's. CJ's has an off premise 10:48:23
 16 license, they have an off premise sale
 17 license, and I believe he was delivering a
 18 case of beer to -- of course it is to the
 19 apartment where this other incident had taken
 20 place. But the kids were 21. He was 10:48:45
 21 delivering a case of beer. I don't remember
 22 if it was Lamm or Fiorillo who issued the
 23 summons to him. But I advised the kid bring
 24 the receipt, bring the license, a copy of the
 25 license, go to court, plead your case, he did, 10:49:02

Page 830

1 Hesse
 2 and it was dismissed.
 3 Q. So when you say the kid was 21,
 4 you are saying the kid who the beer was being
 5 delivered to? 10:49:10
 6 A. Correct. The kid that purchased
 7 the beer was 21.
 8 Q. Okay. So let me understand what
 9 happened. Some kid purchased -- the kid who
 10 was 21 purchased the case of beer from CJ's? 10:49:23
 11 A. Yes. He ordered it.
 12 Q. He ordered it?
 13 A. Yes.
 14 Q. And it was delivered to him?
 15 A. It was in the process of being 10:49:33
 16 delivered to him.
 17 Q. Who was delivering it to him?
 18 A. Some kid Paul, I can't think of
 19 the last name, he has been mentioned a couple
 20 of times. 10:49:39
 21 Q. Was this kid Paul a minor?
 22 A. He was 20.
 23 Q. He was delivering the beer to your
 24 knowledge on behalf of CJ's to the kid in the
 25 apartment who was 21? 10:49:50

7 (Pages 827 to 830)

Page 831

1 Hesse
2 A. Correct.
3 Q. Okay, now, was the citation issued
4 to this Paul kid who was 20, or was the
5 citation issued to the 21 year old in the 10:49:57
6 apartment?
7 A. It was issued to the kid Paul who
8 was making the delivery.
9 Q. Okay, now, who issued the citation
10 to the kid making the delivery? 10:50:16
11 A. It was either Lamm or -- actually,
12 no. It might have been John Dwyer. It was
13 either John Dwyer, Kevin Lamm or Frank
14 Fiorillo. Offhand I am not sure.
15 Q. Now what communication if any did 10:50:27
16 you have with regard to the kid Paul who was
17 making the delivery concerning the citation
18 that was issued to him?
19 A. I believe I was already in the
20 station house at my desk and they brought the 10:50:38
21 kid Paul into the station house to issue the
22 summons. And he was complaining, you know, I
23 work for CJ's, I am making a delivery. Okay,
24 well, if that is the truth bring all your
25 documentation to court and prove your case. I 10:50:51

Page 832

1 Hesse
2 wasn't sure.
3 Q. And that was the extent of your
4 communication with that kid Paul?
5 A. Yes. 10:51:00
6 Q. So the citation was issued?
7 A. Yes.
8 Q. And your advice to the kid was
9 just prove your case in court?
10 A. Exactly. 10:51:07
11 Q. Now the plaintiffs then allege in
12 55 that you returned the case of beer to the
13 under aged youth. Did you return the case of
14 beer to this kid Paul?
15 A. No. 10:51:25
16 Q. Did you take the case of beer to
17 the other kid who was 21 in the apartment?
18 A. No.
19 Q. Do you have an understanding as to
20 what plaintiffs mean when they say that you 10:51:32
21 returned the case of beer to the under aged
22 youth?
23 A. The person who ordered it came and
24 took it. He came and picked it up.
25 Q. And he was 21 to the best of your 10:51:39

Page 833

1 Hesse
2 knowledge?
3 A. He was.
4 Q. And how do you know that?
5 A. We checked his ID. 10:51:43
6 Q. The plaintiffs then allege in the
7 last sentence that Hesse later ordered that
8 Officer Lamm refrain from issuing citations on
9 enforcing the law against this youth.
10 Since we now have two youths that 10:52:03
11 are being referenced in the story by you, did
12 you ever order Officer Lamm to refrain from
13 issuing a citation or enforcing a law, any law
14 against this guy Paul?
15 A. No. 10:52:16
16 Q. Same question with regard to the
17 21 year old that picked up the case of beer?
18 A. No.
19 Q. In paragraph 56, please read
20 paragraph 56 and then tell me when you are 10:52:29
21 done?
22 A. Okay.
23 Q. Now let's look at the first
24 sentence of paragraph 56. Here Snyder and
25 Lamm are alleging that you advised the youths 10:53:06

Page 834

1 Hesse
2 that were referenced in 54 and 55 -- I'm
3 sorry, in 55, that you advised these youths
4 that Officer Lamm was a loser.
5 Did you ever advise any youth that 10:53:23
6 Officer Lamm was a loser?
7 A. No.
8 Q. Did you ever advise any person
9 that was issued a citation that Officer Lamm
10 was a loser? 10:53:34
11 A. No.
12 Q. Did you ever advise these youths
13 that no one likes Lamm as Lamm alleged in 56?
14 A. No.
15 Q. Did you ever advise any individual 10:53:43
16 that was issued a citation that no one likes
17 Lamm?
18 A. No.
19 Q. Did you ever advise any individual
20 who was issued a citation that no one listens 10:53:55
21 to Lamm and therefore they should not listen
22 to Lamm?
23 A. No.
24 Q. Did you ever advise anybody --
25 withdrawn. 10:54:02

8 (Pages 831 to 834)

Page 835

1 Hesse
2 Did you ever advise any youth that
3 they should not listen to Officer Lamm's
4 lawful directives?
5 A. No. 10:54:13
6 Q. Now please read 60 and 61 and tell
7 me when you are done?
8 A. Okay.
9 Q. Now, 60 is referring to an
10 incident, if I am correct, involving a file 10:55:14
11 cabinet being thrown in by one or both of the
12 Bosetti's into the bay?
13 A. Right.
14 Q. And I think you spoke about that
15 the last time, so I am not going to ask you 10:55:27
16 questions about that.
17 61 now if I understand it
18 correctly, tell me if your understanding is
19 differently, that in response to whatever
20 involvement Fiorillo was in this file cabinet 10:55:39
21 incident, you ordered him to spend three
22 consecutive shifts standing motionless beneath
23 a street like at the intersection of Denhoff
24 Walk and Bay Walk.
25 Do you have the same understanding 10:55:53

Page 836

1 Hesse
2 of 61 as I have?
3 MR. CONNOLLY: Objection.
4 A. He is trying to relate a couple of
5 different incidents into one. That one thing 10:56:01
6 had nothing to do with the other.
7 Q. So when you say that one thing had
8 nothing to do with the other, you are saying
9 that whether Fiorillo spent three shifts
10 standing motionless underneath a light had 10:56:17
11 nothing to do with what occurred with the file
12 cabinet with the Bosetti's?
13 MR. GOODSTADT: Objection.
14 MR. CONNOLLY: Objection.
15 A. That is correct. 10:56:24
16 Q. Let's stay on 61. Did you ever
17 order Officer Fiorillo to spend three
18 consecutive shifts standing motionless beneath
19 a street light at the intersection of Denhoff
20 Walk and Bay Walk? 10:56:35
21 A. No.
22 Q. I believe you did tell me at
23 least, I don't know if you told Mr. Goodstadt
24 in response to his questions, that you did
25 require Mr. Fiorillo to spend a number of 10:56:45

Page 837

1 Hesse
2 shifts in a row at the same location at
3 Denhoff Walk and Bay Walk. Do you recall
4 that?
5 A. Correct. 10:56:55
6 Q. Did that direction, putting
7 Fiorillo on the same shift for more than one
8 night in a row have anything to do with the
9 incident involving the Bosetti's throwing a
10 file cabinet in the water? 10:57:07
11 A. Nothing.
12 Q. Did you ever instruct Fiorillo on
13 any occasion that he was forbidden to move
14 from any assigned post during all of the times
15 that he worked on the same shift you worked? 10:57:21
16 A. No.
17 Q. Did you ever instruct any officer
18 during the time that you and Fiorillo worked
19 on the same shifts that that officer was not
20 permitted to speak with Fiorillo? 10:57:37
21 A. No.
22 Q. Paragraph 62 refers to an
23 instruction by you to Fiorillo to wash the
24 fleet of Ocean Beach Police Department
25 vehicles before the end of his shift. 10:57:51

Page 838

1 Hesse
2 Did you ever instruct Fiorillo to
3 wash the fleet of Ocean Beach Police
4 Department vehicles before the end of his
5 shift? 10:58:00
6 A. No.
7 Q. How many vehicles are there in the
8 fleet of the Ocean Beach Police Department?
9 A. Then or now?
10 Q. How about before April 2006; 10:58:09
11 between the 2002 season and the 2005 season?
12 A. We had two Expeditions, we had two
13 little golf cart G.E.M. cars, and I think that
14 was it.
15 Q. Did you ever instruct any of the 10:58:30
16 plaintiffs to ever wash the cars?
17 A. I am sure I have over the years,
18 yes.
19 Q. Have you ever instructed other
20 officers to wash the fleet of the Ocean Beach 10:58:39
21 Police Department?
22 A. I have done it myself, yes.
23 Q. And you have done it yourself?
24 A. Absolutely.
25 MR. NOVIKOFF: I have no further 10:59:03

9 (Pages 835 to 838)

Page 839

1 Hesse
2 questions, thank you.
3 MR. CONNOLLY: I have no
4 questions.
5 MR. BAPTISTE: Take a moment. 10:59:09
6 THE VIDEOGRAPHER: The time is 11
7 o'clock. We are off the record.
8 (Recess taken.)
9 EXAMINATION BY
10 MR. BAPTISTE: 11:03:46
11 THE VIDEOGRAPHER: The time is
12 11:06, we are on the record.
13 **Q. Good morning, Mr. Hesse, I just**
14 **have a few questions.**
15 A. Good morning. 11:05:19
16 **Q. I believe earlier you testified**
17 **that -- actually do you know who Allison**
18 **Sanchez is?**
19 A. Yes.
20 **Q. Who do you know her to be? 11:05:29**
21 A. She was an employee of Suffolk
22 County Civil Service and I believe she was the
23 account manager for Ocean Beach, the
24 incorporated village of.
25 **Q. Could you describe any 11:05:45**

Page 840

1 Hesse
2 **relationship that you had with Ms. Sanchez?**
3 MR. CONNOLLY: Objection.
4 A. It was strictly professional.
5 MR. GOODSTADT: We have an 11:05:55
6 agreement, just one objection --
7 MR. NOVIKOFF: Yes, one objection
8 is for all.
9 **Q. During the time of covering this**
10 **complaint have you ever met with Ms. Sanchez 11:06:07**
11 **in a personal capacity?**
12 A. Well, I went to drop off some
13 paperwork to her once and we went to lunch.
14 But I would consider that a professional
15 meeting. 11:06:22
16 **Q. When you say you went to lunch,**
17 **you went to lunch in Suffolk County?**
18 A. Yes.
19 **Q. In Hauppauge?**
20 A. Yes. 11:06:28
21 **Q. Do you remember -- withdrawn.**
22 **Do you recall what was discussed**
23 **if anything during that lunch?**
24 A. Not really. It was just a lot of
25 small talk. Nothing about the job itself. 11:06:42

Page 841

1 Hesse
2 **Q. Previously you testified that you**
3 **dropped off paperwork. Do you recall what**
4 **documents if any you did deliver?**
5 A. I believe -- I don't remember the 11:06:53
6 name of the document, but there were documents
7 that had to be filled out when a police
8 officer has passed his qualifying exams, the
9 four exams. It has to be signed off on by
10 Civil Service so I can send to it the registry 11:07:09
11 of New York State.
12 **Q. At any time covered in this**
13 **complaint were you ever involved romantically**
14 **with Ms. Sanchez?**
15 A. Never. 11:07:24
16 **Q. How about outside the time of this**
17 **complaint?**
18 A. No.
19 MR. BAPTISTE: No further
20 questions. 11:07:32
21 MR. CONNOLLY: I have no
22 questions.
23 MR. GOODSTADT: I do.
24 EXAMINATION BY
25 MR. GOODSTADT: 11:07:44

Page 842

1 Hesse
2 MR. CONNOLLY: You have had ten
3 hours, but that is fine. Go ahead, and
4 if it becomes an issue I will deal with
5 it. 11:08:07
6 **Q. Mr. Hesse, I just have some follow**
7 **up questions regarding some testimony that you**
8 **have given in response to questions asked by**
9 **the Ocean Beach defendant's attorney, as well**
10 **as the County's attorney. 11:08:19**
11 **You testified about your blogging**
12 **after April 2nd, do you recall your testimony**
13 **last time?**
14 MR. CONNOLLY: Objection.
15 A. Just the fact that I made some 11:08:28
16 entries, yes.
17 **Q. You testified that you had not**
18 **spoken with any trustee about your blog; is**
19 **that correct?**
20 MR. NOVIKOFF: Objection. 11:08:38
21 MR. CONNOLLY: Objection. I don't
22 recall there being any question in that
23 regard, although admittedly there have
24 been thousands of questions.
25 A. Yes. I believe I was asked did I 11:08:51

10 (Pages 839 to 842)

Page 843

1 Hesse
2 discuss my blog entries with any trustee, no.
3 **Q. Sitting here today did you ever**
4 **discuss or have you spoken with any trustees**
5 **for the Village of Ocean Beach anything about** 11:09:02
6 **your blog entries?**
7 A. No.
8 **Q. Have you ever discussed or spoken**
9 **with any member of the board of trustees of**
10 **the Village of Ocean Beach just the fact that** 11:09:12
11 **you have blogged?**
12 A. No.
13 **Q. At the time that you blogged after**
14 **April 2, 2006 you were the top officer**
15 **actively working for the Village of Ocean** 11:09:24
16 **Beach; is that correct?**
17 A. Yes.
18 **Q. At that point in time you had the**
19 **authority to hire and fire?**
20 A. Yes. 11:09:33
21 **Q. At that point in time you had the**
22 **authority to make and administer policy with**
23 **respect to the Police Department?**
24 A. Yes.
25 MR. NOVIKOFF: Note my objection 11:09:40

Page 844

1 Hesse
2 to that question.
3 **Q. Have you ever spoken with or**
4 **discussed your blog entries with Allison**
5 **Sanchez?** 11:09:50
6 A. No.
7 **Q. Has Ms. Sanchez ever spoken with**
8 **you or discussed with you any blog entries**
9 **that she made?**
10 A. No. 11:09:57
11 **Q. Do you know whether Allison**
12 **Sanchez has ever entered any post on the**
13 **blogs?**
14 MR. CONNOLLY: Does he know
15 personally -- 11:10:05
16 **Q. I am asking if he knows, not**
17 **necessarily actually witness her type it in,**
18 **but has anyone ever told you?**
19 A. I found out today that apparently
20 she may have made some blog entries. 11:10:16
21 **Q. So prior to today you didn't know**
22 **that?**
23 A. No.
24 **Q. And I don't want to impede upon**
25 **the attorney/client privilege, but did you** 11:10:24

Page 845

1 Hesse
2 **hear that from anybody other than for perhaps**
3 **your attorney or an attorney that represents**
4 **you?**
5 A. No. 11:10:33
6 MR. NOVIKOFF: Just so the record
7 is clear, I believe we can stipulate that
8 within the last week we all have been
9 served by the Suffolk County supplemental
10 response to your interrogatory requests 11:10:47
11 concerning whether or not Ms. Sanchez
12 posted any blogs, and in fact she did
13 identify some blog entries. Just so to
14 put this question into context of what we
15 received. 11:11:03
16 MR. GOODSTADT: Right, I just
17 wanted to know if he had a conversation
18 with her --
19 MR. NOVIKOFF: No, legitimate, I
20 understand that. 11:11:08
21 **Q. I want to go back to some**
22 **questions that Mr. Novikoff asked you about**
23 **the Halloween incident?**
24 A. Uh-hum.
25 **Q. Do you recall testifying in** 11:11:19

Page 846

1 Hesse
2 **response to Mr. Novikoff's questions about**
3 **Halloween?**
4 A. Yes.
5 **Q. And he went through a series of** 11:11:26
6 **the eyewitness statements that were taken in**
7 **connection with the Halloween incident, do you**
8 **recall that?**
9 A. Yes.
10 **Q. Then he went through select** 11:11:32
11 **portions of some eyewitness statements and had**
12 **asked you whether you knew if this person,**
13 **meaning the eyewitness, had actually**
14 **witnessed the part in which Mr. Bosetti used a**
15 **pool cue to strike someone, do you recall** 11:11:49
16 **that.**
17 MR. CONNOLLY: Objection to the
18 form.
19 A. Yes.
20 **Q. Do you recall testifying that in** 11:11:53
21 **fact the witnesses that Mr. Novikoff asked you**
22 **about, that you were not sure whether they**
23 **witnessed the point -- the time period where**
24 **Mr. Bosetti used the pool cue, do you recall**
25 **that?** 11:12:10

11 (Pages 843 to 846)

Page 847

1 Hesse
 2 MR. CONNOLLY: Objection.
 3 MR. NOVIKOFF: Objection.
 4 A. Repeat that question.
 5 Q. Yes. 11:12:16
 6 Mr. Novikoff walked you through
 7 certain witness statements, do you recall
 8 that?
 9 A. Yes.
 10 Q. And there were the witness 11:12:23
 11 statements that Mr. Novikoff walked you
 12 through that did not contain any allegation
 13 of, or contain any statement with respect to
 14 Mr. Bosetti using a pool cue. Do you recall
 15 that? 11:12:34
 16 A. Right.
 17 Q. Then he had asked you whether the
 18 individuals that he walked you through,
 19 whether they in fact told you that they even
 20 eyewitnessed the incident in which Mr. Bosetti 11:12:42
 21 used the pool cue, do you recall that?
 22 A. Yes.
 23 Q. In fact he even asked you if they
 24 had not witnessed it and they said something
 25 about it, and wrote something about it or gave 11:12:50

Page 848

1 Hesse
 2 you the statement, that in fact it would be
 3 perjurious, correct, do you recall that?
 4 MR. CONNOLLY: Objection.
 5 A. Yes. 11:12:57
 6 Q. And you said yes, it would be
 7 perjurious?
 8 A. Yes.
 9 Q. Let me ask you, in the five days
 10 that you took to reach a conclusion about what 11:13:01
 11 happened at Halloween, did you speak to
 12 anybody who witnessed the incident in which
 13 Mr. Bosetti used a pool cue to strike
 14 somebody?
 15 MR. NOVIKOFF: Note my objection. 11:13:15
 16 MR. CONNOLLY: Objection.
 17 A. I believe no.
 18 Q. And yet you still reached a
 19 conclusion that Mr. Bosetti acted with
 20 appropriate force; is that correct? 11:13:23
 21 A. Correct.
 22 Q. And yet the only statement that
 23 you had in writing, verbally or otherwise
 24 about the use of a pool cue was the statements
 25 that the on-duty officers took; correct? 11:13:37

Page 849

1 Hesse
 2 A. No.
 3 Q. Well what other statements did you
 4 have with respect to a pool cue by the time
 5 you made your conclusions within five days of 11:13:43
 6 investigating the incident?
 7 MR. CONNOLLY: Objection.
 8 A. Well, the dates -- I understand
 9 what you are saying, but Gary Bosetti himself
 10 admitted to using a pool cue. 11:13:55
 11 Q. But sir you testified that you
 12 didn't speak to Gary Bosetti during that five
 13 day period?
 14 A. Correct.
 15 Q. So my question is during that five 11:14:00
 16 day period the only witness statement that you
 17 had from anybody with respect to the use of a
 18 pool cue was from the statements that the
 19 on-duty officers took that evening; is that
 20 correct? 11:14:15
 21 A. Correct.
 22 Q. And yet you still concluded that
 23 Mr. Bosetti used proper force; correct?
 24 A. Correct.
 25 Q. Is it possible that all the other 11:14:24

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1 Hesse
 2 statements that you got from all the other
 3 eyewitnesses are correct, and yet Mr. Bosetti
 4 still used excessive force with a pool cue?
 5 MR. NOVIKOFF: Objection. 11:14:37
 6 MR. CONNOLLY: Objection.
 7 A. I don't believe he used excessive
 8 force.
 9 Q. I understand what your conclusion
 10 is. I understand what your conclusion is that 11:14:46
 11 you don't believe that he used excessive
 12 force. My question to you is on the day that
 13 you reached the conclusion five days after you
 14 started the investigation, is it possible that
 15 all the eyewitness statements that you 11:14:59
 16 received from all the people who didn't
 17 mention anything about a pool cue, is it
 18 possible that even if that -- those statements
 19 were correct and accurate, that Mr. Bosetti
 20 still could have used excessive force with the 11:15:11
 21 pool cue?
 22 MR. NOVIKOFF: Objection to the
 23 form because the eyewitness statements I
 24 presume you are including are those of
 25 the alleged victims. 11:15:23

12 (Pages 847 to 850)

Page 851

1 Hesse
2 **Q. Yes.**
3 A. Yes. They mentioned the pool cue.
4 I never doubted that a pool cue was used.
5 **Q. I understand that. But how did 11:15:29**
6 **you reach the conclusion that Mr. Bosetti had**
7 **not used excessive force within the five days**
8 **of starting the investigation when the only**
9 **statement that you had about the use of a pool**
10 **cue came from the victims of the -- who were 11:15:44**
11 **struck by the pool cue in which they were**
12 **alleging excessive force?**
13 MR. NOVIKOFF: Objection.
14 MR. CONNOLLY: Objection.
15 A. Well there was three of them, and 11:15:52
16 the way I felt they were attacking the police
17 officer at that point. So I do not believe it
18 to be excessive.
19 **Q. Is it possible that a police**
20 **officer could be attacked by a civilian and 11:16:03**
21 **the police officer still use excessive force?**
22 MR. CONNOLLY: Objection.
23 MR. NOVIKOFF: Objection. Maybe
24 if they were midgets.
25 A. You are speculating about 11:16:14

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1 Hesse
2 something that may or may not happen somewhere
3 in the world, I don't know, yes.
4 MR. CONNOLLY: So the answer to
5 counsel's question regarding 11:16:25
6 possibilities, is it possible.
7 A. Yes, why not.
8 **Q. And is it possible that Gary**
9 **Bosetti used excessive force, even taking all**
10 **the witness statements as true, at that point 11:16:31**
11 **in time is it possible in your mind that Gary**
12 **Bosetti used excessive force with that pool**
13 **cue?**
14 MR. CONNOLLY: Objection.
15 MR. NOVIKOFF: Objection. 11:16:39
16 A. That was the point of the
17 investigation, to get to the bottom of that.
18 **Q. And yet you didn't speak to a**
19 **single person and you didn't take a single**
20 **statement from anybody who actually witnessed 11:16:47**
21 **Mr. Bosetti use the pool cue; is that correct?**
22 MR. NOVIKOFF: Objection.
23 MR. CONNOLLY: Objection.
24 A. Their statements are their
25 statements. 11:16:54

Page 853

1 Hesse
2 **Q. That is not the question. The**
3 **question was at the time that you reached your**
4 **conclusion you had not taken a single**
5 **statement from a witness who told you that 11:17:00**
6 **they actually witnessed Mr. Bosetti use the**
7 **pool cue?**
8 MR. NOVIKOFF: Objection.
9 MR. CONNOLLY: Objection.
10 A. I didn't have to take statements, 11:17:07
11 there were three of them there.
12 MR. CONNOLLY: Simple yes or no
13 though.
14 A. I did not, no.
15 **Q. Do you know whether Mr. Cherry 11:17:14**
16 **took any statements from any individual who**
17 **witnessed Mr. Bosetti use the pool cue?**
18 A. No.
19 **Q. You don't know or he didn't?**
20 A. I believe it is no. 11:17:23
21 MR. CONNOLLY: Why don't you break
22 down the question.
23 **Q. Did Mr. Cherry --**
24 MR. CONNOLLY: And by the way I
25 believe he has been asked this. 11:17:34

Page 854

1 Hesse
2 **Q. Did Mr. Cherry take any statements**
3 **from any eyewitness who actually saw Gary**
4 **Bosetti use a pool cue to strike somebody?**
5 MR. NOVIKOFF: Objection. 11:17:43
6 MR. CONNOLLY: Objection.
7 A. No.
8 **Q. I believe you testified that you**
9 **heard some rumors that the plaintiffs thought**
10 **that there was a cover-up. Do you recall 11:18:12**
11 **testifying to that?**
12 A. Yes.
13 **Q. What rumors did you hear?**
14 A. That there was a cover-up.
15 **Q. Who did you hear the rumors from? 11:18:21**
16 A. I don't recall.
17 **Q. When did you hear the rumors?**
18 A. I don't recall that either.
19 **Q. Do you recall what year it was?**
20 A. It was probably in 2004. 11:18:29
21 **Q. Do you recall what the rumors**
22 **were?**
23 MR. CONNOLLY: Objection.
24 A. Not specifically, no.
25 **Q. How about generally? 11:18:38**

13 (Pages 851 to 854)

Page 855

1 Hesse
2 A. Generally that we were covering up
3 to save Gary Bosetti.
4 **Q. And do you recall any of the**
5 **plaintiffs in which you heard the rumor that** 11:18:51
6 **were -- strike that.**
7 **As part of these rumors do you**
8 **recall any of the plaintiffs who were alleging**
9 **that you were covering up the Halloween**
10 **incident to save Gary Bosetti?** 11:19:09
11 MR. NOVIKOFF: Objection.
12 MR. CONNOLLY: Objection.
13 A. You are going to have to rephrase
14 that or something.
15 **Q. Which plaintiffs were the ones** 11:19:16
16 **that you heard rumors about that were alleging**
17 **there to be a cover-up?**
18 MR. CONNOLLY: Objection.
19 MR. NOVIKOFF: Objection.
20 MR. CONNOLLY: There has not been 11:19:27
21 any testimony in that regard.
22 MR. GOODSTADT: I think I led off
23 the question by saying rumors --
24 MR. CONNOLLY: I think you made a
25 generalization that there were rumors, I 11:19:35

Page 856

1 Hesse
2 don't think you specifically said --
3 **Q. Did you hear a rumor that the**
4 **plaintiffs were claiming that there was an**
5 **allegation of cover-up?** 11:19:42
6 A. I heard rumors, yes. I don't
7 recall specifically coming from them, but you
8 know I could speculate and say yes, but I
9 don't know.
10 **Q. I am not saying that you actually** 11:19:53
11 **heard the rumors from them. I am talking**
12 **about whether you heard rumors that it was the**
13 **plaintiffs who were the ones that were stating**
14 **that there was a cover-up?**
15 A. I believe so. 11:20:03
16 **Q. Which plaintiffs?**
17 A. I don't know.
18 **Q. Do you recall any of the**
19 **plaintiffs that you heard were claiming that**
20 **there was a cover-up to save Gary Bosetti?** 11:20:10
21 A. I believe I did state in one of
22 the other three days that I was here that
23 Kevin Lamm had mentioned something about
24 sweeping this under the carpet, or another
25 situation of sweeping this under the carpet. 11:20:21

Page 857

1 Hesse
2 And what he meant by that I don't know.
3 **Q. But that is something that he said**
4 **to you directly; correct?**
5 A. You know, yes. 11:20:28
6 **Q. I am talking now about the rumors,**
7 **I am not talking about someone made the**
8 **allegation to you directly. You testified to**
9 **rumors. I want to know what rumors you are**
10 **referring to?** 11:20:36
11 MR. NOVIKOFF: Objection.
12 MR. CONNOLLY: Objection.
13 A. They were just rumors just like
14 any other rumor, how do they get around. Word
15 of mouth. I don't know. 11:20:43
16 **Q. Who did you hear the rumors from?**
17 A. I don't recall.
18 MR. CONNOLLY: Objection. He
19 indicated he doesn't know.
20 **Q. Did you respond to the rumors?** 11:20:50
21 A. Not that I recall.
22 **Q. Did you ever speak with any of the**
23 **plaintiffs about these rumors?**
24 A. Not specifically, no.
25 **Q. Did you ever speak with -- strike** 11:20:59

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1 Hesse
2 **that.**
3 **Did you ever speak to them**
4 **generally about the fact that there was an**
5 **allegation of a cover-up, other than for the** 11:21:04
6 **conversation you had with Lamm about sweeping**
7 **under the rug?**
8 MR. NOVIKOFF: Objection.
9 A. No.
10 **Q. How come; why didn't you address** 11:21:12
11 **it with them when you heard these rumors?**
12 MR. CONNOLLY: Objection.
13 MR. NOVIKOFF: Objection.
14 A. Well because I heard the rumors I
15 did speak to them individually, but not about 11:21:21
16 the rumors. Like I stated I think the last
17 time I was here that I sat down with each one
18 of them with the actual file for the whole
19 Halloween incident and I said read it, you
20 tell me what you see here. 11:21:35
21 Kevin Lamm like I said refused to
22 read it. Fiorillo read through it and he
23 thought it was good at the time. And Snyder
24 said that wow, I didn't know that, I didn't
25 know that, I didn't know that. And he read 11:21:50

14 (Pages 855 to 858)

Page 859

1 Hesse
 2 through it and he thought it was good.
 3 MR. GOODSTADT: I think we have an
 4 agreement that I don't have to move to
 5 strike at this time? 11:21:59
 6 MR. NOVIKOFF: No, not at all.
 7 **Q. I will re-ask the question.**
 8 **The question is why didn't you**
 9 **raise the rumors that you heard with the**
 10 **plaintiffs? 11:22:06**
 11 A. I didn't see there was a point.
 12 **Q. Did you ever speak with Gary**
 13 **Bosetti about the rumors?**
 14 A. Not specifically, no.
 15 **Q. How about generally did you ever 11:22:15**
 16 **speak with him about the rumors?**
 17 A. I think there was some complaints
 18 on his behalf that he felt that, you know,
 19 that these guys were bad mouthing him saying
 20 that there were cover-ups. And I did tell 11:22:29
 21 Gary that, you know, I didn't believe his
 22 allegation that they were trying to hurt him
 23 or anything else. I just investigated what I
 24 had. Took what I had. Presented it to the DA
 25 and that was it. 11:22:42

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1 Hesse
 2 **Q. So Gary Bosetti made an allegation**
 3 **that he thought that the plaintiffs were**
 4 **trying to hurt him?**
 5 A. Yes. 11:22:49
 6 **Q. Did you ever speak to Richie**
 7 **Bosetti about the allegations of a cover-up or**
 8 **the rumors of a cover-up?**
 9 A. No.
 10 MR. NOVIKOFF: Objection. 11:23:01
 11 **Q. When did Gary Bosetti claim to you**
 12 **or complain to you that the plaintiffs were**
 13 **trying to hurt him?**
 14 A. Specifically I don't remember.
 15 **Q. Do you recall what year it was? 11:23:16**
 16 A. It was probably at the end of 2004
 17 at some point.
 18 **Q. Did you ever discuss the rumors of**
 19 **a cover-up after you heard them with anybody?**
 20 A. I had spoken to Chief Paradiso 11:23:30
 21 about the whole incident.
 22 **Q. Tell me when was that?**
 23 A. Specifically I don't have a date,
 24 but it was right after I guess these rumors
 25 had begun that I sat him down and had a little 11:23:50

Page 861

1 Hesse
 2 chat with him about it.
 3 **Q. Tell me what you recall being**
 4 **stated during that chat?**
 5 A. I told him what I guess both sides 11:24:01
 6 were feeling, Gary and Richie, and then three
 7 of the plaintiffs, Fiorillo, Lamm and Snyder
 8 specifically. And I thought it would be a
 9 good idea that we get the group together and
 10 we hash it out. He refused to do so, he chose 11:24:16
 11 not to do it.
 12 **Q. The chief chose not to do it?**
 13 A. Correct.
 14 **Q. Did he tell you why?**
 15 A. No. 11:24:25
 16 **Q. You testified about the District**
 17 **Attorney's involvement in the Halloween**
 18 **incident, do you recall that?**
 19 A. Yes.
 20 **Q. You testified that Mallory 11:24:38**
 21 **Sullivan reviewed it, do you recall that?**
 22 A. Yes.
 23 **Q. Did anyone in the DA's office**
 24 **conduct an independent investigation to your**
 25 **knowledge? 11:24:54**

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1 Hesse
 2 MR. NOVIKOFF: Objection.
 3 MR. CONNOLLY: Objection.
 4 A. To my knowledge no. I don't know.
 5 **Q. And Mallory Sullivan is an 11:24:56**
 6 **attorney in the DA's office?**
 7 A. Yes, she was a prosecutor.
 8 **Q. Do you know whether any of the**
 9 **DA's investigators were involved in the**
 10 **Halloween incident? 11:25:07**
 11 A. Not that I am aware of.
 12 **Q. Did you ever speak with any DA**
 13 **investigator with respect to the Halloween**
 14 **incident?**
 15 A. I did not. 11:25:13
 16 **Q. Did you ever speak with any of the**
 17 **DA's investigators with respect to your**
 18 **investigation of the Halloween incident?**
 19 A. I did not.
 20 **Q. Then you testified that Van Koot 11:25:25**
 21 **and Schalik's attorneys received discovery, do**
 22 **you recall that?**
 23 MR. NOVIKOFF: Objection.
 24 A. Yes.
 25 **Q. What did they receive? 11:25:35**

15 (Pages 859 to 862)

Page 863

1 Hesse
 2 MR. CONNOLLY: Objection.
 3 A. I wouldn't know. I think the
 4 court would have responded to that.
 5 **Q. So you don't know?** 11:25:44
 6 A. I don't know.
 7 **Q. How do you know that they actually**
 8 **received discovery?**
 9 A. I think we had a discovery demand,
 10 but specifically I don't know. 11:25:53
 11 **Q. You were involved with responding**
 12 **to the demand?**
 13 A. You know I don't recall.
 14 **Q. Then you testified that you were**
 15 **upset that Fiorillo and Lamm went to Judge** 11:26:13
 16 **Russell with respect to the station house bail**
 17 **issue, do you recall that?**
 18 A. Yes.
 19 **Q. Why were you upset that they went**
 20 **to Judge Russell?** 11:26:23
 21 A. They went outside the confines of
 22 the Police Department to get information about
 23 Police Department procedures.
 24 **Q. So outside of the chain of**
 25 **command?** 11:26:32

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1 Hesse
 2 A. Absolutely.
 3 **Q. Do you recall when that incident**
 4 **was?**
 5 A. Specifically no. 11:26:34
 6 **Q. Do you recall what year it was?**
 7 A. May have been 2005.
 8 **Q. Do you recall when in 2005?**
 9 A. No.
 10 **Q. Did you discipline them for going** 11:26:48
 11 **outside the chain of command?**
 12 A. I talked to them.
 13 MR. CONNOLLY: Objection.
 14 **Q. Did you memorialize your talk with**
 15 **them or any other discipline?** 11:26:58
 16 A. No.
 17 **Q. You testified that they had done**
 18 **it again after you spoke with them; is that**
 19 **correct?**
 20 A. Yes. 11:27:05
 21 **Q. Did you discipline them for doing**
 22 **that?**
 23 MR. CONNOLLY: Objection.
 24 A. I counseled them, I had a talk
 25 with them. 11:27:10

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1 Hesse
 2 **Q. Did you write them up at all?**
 3 A. No.
 4 **Q. Did you tell anybody else that**
 5 **they had violated your instruction with** 11:27:14
 6 **respect to the station house bail?**
 7 A. I don't recall if I did.
 8 **Q. Do you recall what year it was**
 9 **that they allegedly disobeyed your order?**
 10 MR. CONNOLLY: Objection. 11:27:26
 11 A. I believe it was in a short
 12 timeframe, so it would have been close to when
 13 they did it the first time.
 14 **Q. 2005?**
 15 A. Yes. 11:27:34
 16 **Q. Was that during the season or**
 17 **off-season?**
 18 A. It would be during the season.
 19 **Q. Did you ever speak with Judge**
 20 **Russell about the station house bail issue?** 11:27:42
 21 A. I don't believe so.
 22 **Q. Did you ever speak with any member**
 23 **of the board of trustees about the station**
 24 **house bail issue?**
 25 A. No. 11:27:52

Page 866

1 Hesse
 2 **Q. Did you ever speak with the mayor**
 3 **about the station house bail issue?**
 4 A. No.
 5 **Q. The mayor at the time was** 11:27:56
 6 **Ms. Rogers?**
 7 A. Yes.
 8 **Q. You testified last time in**
 9 **response to Mr. Novikoff's questions about**
 10 **instructing officers to drive other off-duty** 11:28:12
 11 **officers at the end of their shift, do you**
 12 **recall that?**
 13 A. Yes.
 14 **Q. Did you ever instruct any officers**
 15 **to drive off-duty officers out to the** 11:28:23
 16 **checkpoint when it was not the end of their**
 17 **shift?**
 18 MR. NOVIKOFF: Objection, form,
 19 and I think we actually covered this
 20 through your -- in your original direct 11:28:33
 21 examination.
 22 MR. GOODSTADT: Right, but I was
 23 not sure what his response meant to your
 24 question about yes, I instructed them to
 25 do it at the end of their shift. 11:28:45

16 (Pages 863 to 866)

Page 867

1 Hesse
 2 MR. NOVIKOFF: What is confusing
 3 about that response?
 4 **Q. Was it as their shift ended or was**
 5 **it at some point later than that in which you** 11:28:53
 6 **instructed the officers to drive the off-duty**
 7 **officers to the checkpoint?**
 8 MR. NOVIKOFF: Objection.
 9 MR. CONNOLLY: A point later
 10 meaning -- 11:29:06
 11 MR. GOODSTADT: A couple of hours
 12 later.
 13 MR. CONNOLLY: When they were off
 14 duty?
 15 MR. GOODSTADT: Yes. 11:29:13
 16 MR. CONNOLLY: So instructing
 17 off-duty officers --
 18 MR. GOODSTADT: Instructing
 19 on-duty officers to drive off-duty
 20 officers to the checkpoint. 11:29:17
 21 MR. CONNOLLY: Meaning making
 22 reference to several hours later after
 23 the officers who were driven got off the
 24 shift?
 25 MR. GOODSTADT: The off-duty 11:29:26

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1 Hesse
 2 officers, yes, several hours after their
 3 becoming off duty.
 4 MR. CONNOLLY: I understand the
 5 question now. 11:29:34
 6 **Q. Because the testimony that I read**
 7 **and I understood from last time was that**
 8 **Mr. Hesse had instructed on-duty officers to**
 9 **drive off-duty officers to the checkpoint at**
 10 **the end of their shift, do you recall that?** 11:29:47
 11 A. Yes.
 12 **Q. Did you ever instruct on-duty**
 13 **officers to drive off-duty officers to the**
 14 **checkpoint when it was not at the end of the**
 15 **off-duty officer's shift?** 11:29:56
 16 A. Sometimes, yes.
 17 **Q. Was it -- did you ever instruct**
 18 **any on-duty officers to drive off-duty**
 19 **officers to the checkpoint after they got out**
 20 **of the bars in Ocean Beach?** 11:30:08
 21 MR. NOVIKOFF: Objection to the
 22 form.
 23 MR. CONNOLLY: Objection.
 24 A. I may have.
 25 **Q. Did any of the plaintiffs ever** 11:30:13

Page 869

1 Hesse
 2 **complain to you about doing that?**
 3 A. Never.
 4 **Q. Do you believe it was appropriate**
 5 **for the on-duty officers to drive off-duty** 11:30:21
 6 **officers to the checkpoint after they got out**
 7 **of the bars?**
 8 MR. NOVIKOFF: Objection.
 9 MR. CONNOLLY: Objection.
 10 A. Yes. 11:30:28
 11 **Q. How many officers were on duty**
 12 **generally on the weekends between 2 in the**
 13 **morning and 6 in the morning?**
 14 MR. CONNOLLY: What years?
 15 **Q. Between 2003 and 2005; the seasons** 11:30:48
 16 **of '03 to '05?**
 17 A. They would not change much between
 18 the years. There could be -- well, between 2
 19 and 4 normally there would be close to eight
 20 officers, and usually minimum staffing we 11:31:02
 21 would have four to five officers between those
 22 time frames.
 23 **Q. How about between 4 and 6 in the**
 24 **morning?**
 25 A. 4 and 6 in the morning, usually a 11:31:17

Page 870

1 Hesse
 2 tour would end at 4 o'clock and two or three
 3 officers would go off duty. And then from the
 4 midnight to 8 shift there would generally be
 5 three, sometimes four officers on duty. 11:31:28
 6 **Q. I believe you testified that you**
 7 **had learned that they intended to make you**
 8 **acting chief or acting deputy chief in late**
 9 **December of 2005, do you recall that?**
 10 A. Yes, I believe so. 11:31:57
 11 **Q. How did you learn of the board of**
 12 **trustees intent?**
 13 A. I believe Joe Loeffler came to
 14 talk to me about it.
 15 **Q. Do you recall what he stated?** 11:32:07
 16 A. Specifically, no.
 17 **Q. Do you recall generally what he**
 18 **stated?**
 19 A. He believed that because of the
 20 absence of Ed Paradiso as the chief that the 11:32:15
 21 Police Department needs to move forward and it
 22 has to be somebody that can make the decisions
 23 for the Police Department, so therefore they
 24 were going to promote me to this deputy chief.
 25 **Q. At that point in time do you know** 11:32:30

17 (Pages 867 to 870)

Page 871

1 Hesse
2 whether Mr. Loeffler had known that you had
3 not passed your sergeant's test?
4 MR. CONNOLLY: Objection.
5 A. Yes. 11:32:38
6 Q. He knew that?
7 A. Yes.
8 Q. Did you speak to him about that at
9 that time?
10 A. I don't remember specifically 11:32:43
11 about that time, but I have spoken to him
12 about it.
13 Q. How about prior to the decision by
14 the board of trustees to promote you to deputy
15 chief or acting deputy chief, had you spoken 11:32:52
16 with Mr. Loeffler or anybody else on the board
17 of trustees about the fact that you had not
18 passed the sergeant's exam?
19 MR. CONNOLLY: Objection.
20 A. I may have talked to Joe Loeffler 11:33:02
21 about it previous. I don't know about anybody
22 else on the board.
23 Q. Do you recall the sum and
24 substance of any of those conversations?
25 A. No, not specifically. No. 11:33:12

Page 872

1 Hesse
2 Q. How about generally?
3 A. No, not really.
4 Q. And you are sure that was late
5 December that you learned of the board's 11:33:24
6 intent to promote you that next January?
7 MR. CONNOLLY: Objection.
8 A. I believe so.
9 Q. You testified about I think you
10 called it Officer Fiorillo's or Officer Lamm's 11:33:39
11 discretion in writing summonses, do you recall
12 that?
13 A. Uh-hum.
14 Q. And you mentioned something about,
15 I think your quote was silly laws regarding 11:33:49
16 bike riding in the village, do you recall
17 that?
18 A. Yes.
19 Q. Did you ever petition the board to
20 change the law with respect to bike riding? 11:33:57
21 A. Actually I never petitioned it,
22 but they have changed the laws a little bit
23 here and there. They augmented them.
24 Q. When did they change the laws with
25 respect to bike riding? 11:34:06

Page 873

1 Hesse
2 A. Specifically I don't remember the
3 year, but we used to go through the whole
4 summer with absolutely no bike riding any time
5 day or night. Now they changed it to where 11:34:15
6 you can ride between certain times and certain
7 days.
8 Q. Do you recall when they made that
9 change?
10 A. Not specifically, no. 11:34:23
11 Q. Was it before or after the
12 plaintiffs were terminated?
13 MR. CONNOLLY: Objection.
14 A. I believe it was before.
15 MR. NOVIKOFF: Same agreement on 11:34:32
16 use of the word?
17 MR. GOODSTADT: Yes.
18 MR. NOVIKOFF: Got it.
19 Q. I believe you testified last time
20 about Kevin Lamm conducting an illegal search 11:34:46
21 and seizure, do you recall that?
22 MR. CONNOLLY: Objection. Last
23 time when --
24 Q. In response to Mr. Novikoff's
25 questions? 11:35:01

Page 874

1 Hesse
2 A. Specifically no, I don't recall.
3 Q. Do you recall Kevin Lamm ever
4 conducting an illegal search and seizure?
5 A. Yes. Are we talking about when he 11:35:11
6 put some guys in handcuffs or are we talking
7 about when he went into CJ's; you got to give
8 me a little more specific.
9 Q. Well I am asking do you believe
10 that Mr. Lamm ever conducted an illegal search 11:35:24
11 and seizure?
12 A. Yes.
13 Q. How many times?
14 A. I don't know. A couple of
15 incidents off the top of my head, maybe three 11:35:29
16 or four times that I know of.
17 Q. Did you ever discipline him for
18 doing that?
19 A. Yes.
20 Q. How did you discipline him? 11:35:38
21 A. Verbally.
22 Q. Did you ever do anything in
23 writing?
24 A. No.
25 Q. How many times did you discipline 11:35:42

18 (Pages 871 to 874)

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Page 875

1 Hesse
2 him verbally?
3 A. Off the top of my head maybe
4 twice.
5 Q. What was his response? 11:35:49
6 A. He said he will never do it again.
7 Q. Did you ever investigate whether
8 he actually committed an illegal search and
9 seizure?
10 MR. NOVIKOFF: Objection. 11:36:05
11 A. One of them the complaint was
12 actually made by Tommy Snyder verbally to me,
13 and the other one I witnessed myself.
14 Q. How come you never wrote him up
15 for the illegal search and seizure? 11:36:19
16 MR. NOVIKOFF: Objection.
17 A. He was counseled verbally. I
18 didn't need to put it in writing.
19 Q. Why not?
20 MR. CONNOLLY: Objection. 11:36:30
21 A. I didn't believe I had to.
22 Q. Did you ever tell Chief Paradiso
23 that Kevin Lamm performed an illegal search
24 and seizure?
25 A. I don't specifically remember if I 11:36:35

Page 876

1 Hesse
2 did or not.
3 Q. Did any civilian ever complain
4 that Mr. Lamm engaged in an illegal search and
5 seizure? 11:36:43
6 A. Yes.
7 Q. In writing?
8 A. He chose not to.
9 Q. Who was that?
10 A. His first name was Caleb. I don't 11:36:46
11 know what his last name is.
12 Q. So how did you learn that Caleb
13 was claiming that there was an illegal search
14 and seizure?
15 A. After Tommy Snyder had told me 11:37:00
16 what was going on in reference to CJ's Bar, I
17 believe Caleb came to see me in the days
18 preceding Tommy telling me. So I asked him
19 what happened, and he told me what happened.
20 Q. Is Caleb an owner or an employee 11:37:17
21 of CJ's?
22 A. He was a bartender for a year or
23 two.
24 Q. Did you -- strike that.
25 Caleb came to see you about the 11:37:27

Page 877

1 Hesse
2 issue?
3 A. Yes.
4 Q. At the police station?
5 A. It might have been out front. 11:37:31
6 Q. Did you make a blotter entry?
7 A. No.
8 Q. How come?
9 A. I asked him if he wanted to put it
10 in writing and he chose not to. So he just 11:37:40
11 wanted to let me know what was going on.
12 Q. Does a complaint or an allegation
13 have to be in writing to make any -- for you
14 to put in a blotter entry?
15 MR. CONNOLLY: Objection. 11:37:54
16 MR. NOVIKOFF: Objection.
17 A. I would prefer, yes.
18 Q. That wasn't the question. The
19 question was does a complaint or allegation
20 have to be in writing to lead you to the 11:38:00
21 decision to make a blotter entry?
22 A. Back then we didn't make many
23 blotter when it came to stuff like that. We
24 didn't make blotter entries for complainants
25 coming in to make a complaint against the 11:38:12

Page 878

1 Hesse
2 Police Department or a police officer.
3 Q. Have you ever discussed with
4 Paradiso your allegation that Mr. Lamm engaged
5 in an unlawful search or seizure? 11:38:21
6 MR. NOVIKOFF: Objection.
7 MR. CONNOLLY: Objection.
8 A. I don't recall.
9 Q. I think you testified about
10 Mr. Carter allegedly sleeping while on duty, 11:38:36
11 do you recall that?
12 A. Yes.
13 Q. Did you ever tell Chief Paradiso
14 that Ed Carter was sleeping on data?
15 A. I don't recall if I did or not. 11:38:44
16 Q. Did you ever anyone on the board
17 of trustees that Ed Carter was sleeping on
18 duty?
19 MR. NOVIKOFF: Objection.
20 A. No. 11:38:52
21 Q. Did you ever write him up for
22 sleeping on duty?
23 A. No.
24 Q. So let me understand. Mr. Carter
25 was sleeping while he was being paid as a 11:38:59

19 (Pages 875 to 878)

Page 879

1 Hesse
2 **police officer; is that correct?**
3 A. That is correct.
4 **Q. Do you consider that stealing time**
5 **from the department or from the village? 11:39:06**
6 MR. CONNOLLY: Objection.
7 A. You could look at it that way,
8 yes.
9 **Q. I am asking whether you looked at**
10 **it that way? 11:39:13**
11 A. I didn't at the time, no.
12 **Q. You didn't look at it as he was**
13 **stealing time while he was sleeping?**
14 A. No.
15 **Q. Did you view it as he was stealing 11:39:20**
16 **money while being paid for sleeping?**
17 MR. NOVIKOFF: Objection. Isn't
18 this beyond --
19 MR. GOODSTADT: It is an
20 allegation as to why he was terminated. 11:39:34
21 MR. NOVIKOFF: Putting aside the
22 fact that you had ten hours, and I can't
23 speak for Kevin, but I think this is
24 improper. Isn't this beyond the scope of
25 any questions that I asked? 11:39:44

Page 880

1 Hesse
2 MR. GOODSTADT: I don't think so.
3 MR. NOVIKOFF: If I went into the
4 issue of why he was terminated --
5 MR. GOODSTADT: Which you did. 11:39:52
6 MR. NOVIKOFF: Okay, you can ask
7 him about those reasons.
8 MR. GOODSTADT: I am.
9 MR. NOVIKOFF: But now you are
10 going into questions about why he didn't 11:39:59
11 report certain things to certain people.
12 MR. GOODSTADT: I didn't think --
13 I believe the reasons are not true, so I
14 can question him about it.
15 MR. NOVIKOFF: Okay. 11:40:10
16 MR. GOODSTADT: Just as I can
17 question him at trial about it if it is
18 raised. Go back to the last question.
19 (Record read.)
20 MR. CONNOLLY: Objection. 11:40:41
21 A. I never looked at it that way, no.
22 **Q. Just to go back to the DA's**
23 **investigation of the Halloween incident, did**
24 **the DA -- strike that.**
25 **Before we get to the DA's 11:41:05**

Page 881

1 Hesse
2 **involvement in Halloween, you also mentioned**
3 **that the judge had to sign off on your**
4 **investigation before the arrests were made; is**
5 **that correct? 11:41:19**
6 MR. CONNOLLY: Objection.
7 A. I don't specifically think that
8 the judge has to sign off on an investigation.
9 No, I don't remember saying that.
10 **Q. Did the judge have to sign off 11:41:25**
11 **before an arrest is made?**
12 A. No. I think you are
13 mis-understanding what the judge signed off
14 on.
15 **Q. What did the judge sign off on? 11:41:34**
16 A. The criminal summonses to be sent
17 to the alleged defendants.
18 **Q. And the judge signed off on the**
19 **criminal summonses that were sent to**
20 **Mr. Schalik and Mr. Van Koot? 11:41:49**
21 A. I believe so. That is a court
22 document, it is done with the court.
23 **Q. Was that same process of the court**
24 **signing off on the summons performed in the**
25 **Sam Gilbert matter when he was arrested? 11:42:01**

Page 882

1 Hesse
2 MR. CONNOLLY: Objection.
3 A. Correct, yes.
4 **Q. How about the DA's involvement**
5 **that you testified to with respect to the 11:42:12**
6 **Halloween incident, did the DA have a similar**
7 **involvement with respect to the Sam Gilbert**
8 **matter?**
9 MR. CONNOLLY: Objection.
10 A. Yes. 11:42:18
11 **Q. Has the judge ever -- strike that.**
12 **Has the judge in Ocean Beach ever**
13 **refused to sign a criminal summons that you**
14 **brought to the judge to sign?**
15 A. Not that I am aware of, no, never. 11:42:34
16 MR. CONNOLLY: Objection.
17 **Q. I just want to go back again to a**
18 **statement that you made with respect to Mr.**
19 **Fiorillo's investigation of the Halloween**
20 **incident. I believe in response to one of 11:42:53**
21 **Mr. Novikoff's questions you testified that it**
22 **was a poorly done investigation because he was**
23 **not aggressive enough to go back into the bar**
24 **to get statements, do you recall that?**
25 A. Not specifically, but yes. 11:43:07

20 (Pages 879 to 882)

Page 883

1 Hesse
2 **Q. But you believe that he was not**
3 **aggressive enough to go back into the bar to**
4 **get statements?**
5 A. I think that he could have been a 11:43:16
6 little more aggressive at speaking to people,
7 yes.
8 **Q. Do you believe that the on-duty**
9 **officers that didn't get statements from other**
10 **people because they were not aggressive 11:43:23**
11 **enough?**
12 MR. CONNOLLY: Objection.
13 A. Yes.
14 MR. GOODSTADT: Would you mark
15 this document, blog posting, Bates 11:43:43
16 numbers P 962 to P 1265, Hesse Exhibit
17 30.
18 (Hesse Exhibit 30, blog posting, P
19 962 to P 1265, marked for
20 identification, as of this date.) 11:44:40
21 **Q. I placed in front of Mr. Hesse**
22 **what has now been marked as Hesse Exhibit 30,**
23 **multiple page exhibit bearing Bates number P**
24 **962 to P 1265.**
25 MR. CONNOLLY: I have 64. 11:45:03

Page 884

1 Hesse
2 MR. GOODSTADT: It goes to the
3 back of that page.
4 **Q. Could you turn to page P 970, post**
5 **number 22. Are you there? 11:45:29**
6 A. Yes.
7 **Q. Why don't you take a second to**
8 **read that post?**
9 MR. CONNOLLY: I am objecting to
10 any questioning regarding the postings. 11:45:51
11 You need to explain as to how they were
12 delved into on questioning by the village
13 attorney or the county attorney. It is
14 beyond the scope of redirect.
15 MR. GOODSTADT: First of all with 11:46:07
16 respect to this post he has testified in
17 response to questions by the beach's
18 attorney that he believed that the
19 officers didn't go inside to get -- or
20 didn't appropriately go inside to get 11:46:21
21 witness statements because they were not
22 aggressive enough.
23 This post clearly indicates that
24 do you ever wonder why no one would talk
25 to you -- did you ever notice why no one 11:46:36

Page 885

1 Hesse
2 would talk to you guys during your shitty
3 investigation. Everyone hates you.
4 Everyone knew that you were a rat.
5 I think that that is exactly in 11:46:46
6 response to, or at least contradicts what
7 he has testified to in response to
8 Mr. Novikoff.
9 MR. NOVIKOFF: So obviously
10 Mr. Hesse has properly identified that he 11:47:00
11 was the author of the blog presumably
12 based upon the interrogatory. His
13 testimony is what it is. His blog says
14 what it says. I am trying -- I am now
15 trying to figure out the purpose of going 11:47:12
16 through the blog.
17 MR. CONNOLLY: It is duplicative.
18 MR. GOODSTADT: It is not
19 duplicative. It contradicts his
20 testimony. That is exactly what redirect 11:47:27
21 is for.
22 MR. NOVIKOFF: Me and Mr. Connolly
23 have different beliefs apparently as to
24 your ten hours and what it was for. So I
25 can't tell Mr. Hesse not to answer the 11:47:40

Page 886

1 Hesse
2 question.
3 MR. CONNOLLY: I think it is --
4 MR. GOODSTADT: Also another basis
5 is that he testified that in response to 11:47:46
6 his threats that my clients would never
7 get another job in law enforcement, that
8 he never took any steps to prevent them
9 from getting another job in law
10 enforcement, and I think that statements 11:48:01
11 on a blog where a community in law
12 enforcement is reading it is a step.
13 MR. NOVIKOFF: Well on that note,
14 Andrew, I think it would be, putting
15 aside the ten hours, we get past that 11:48:10
16 issue, I think the question would be
17 appropriate that you would ask him since
18 he has admitted writing certain things on
19 the blog, in sum and substance do you
20 agree with the proposition that writing 11:48:24
21 something on the blog that was not nice
22 to your clients would be harmful to their
23 getting jobs in the future; that is a
24 very general question which would be
25 responsive to that statement. 11:48:34

21 (Pages 883 to 886)

<p style="text-align: right;">Page 887</p> <p>1 Hesse</p> <p>2 And I think there could be posed</p> <p>3 other general questions that would be</p> <p>4 responsive as opposed to going into</p> <p>5 certain blogs and each and every blog and 11:48:41</p> <p>6 going through it. That is my position,</p> <p>7 but it is Kevin's witness, so...</p> <p>8 MR. GOODSTADT: But in that case,</p> <p>9 and I don't know what the answer to that</p> <p>10 question -- 11:48:55</p> <p>11 MR. NOVIKOFF: The answer would be</p> <p>12 what it is and you would go from there.</p> <p>13 MR. GOODSTADT: But assuming he</p> <p>14 says that posting something negative or</p> <p>15 calling a police officer a rat and 11:49:02</p> <p>16 telling them that they did a shitty</p> <p>17 investigation in a forum in which other</p> <p>18 people in the police community would be</p> <p>19 reading it may affect their ability to</p> <p>20 get another job, and I want to be able to 11:49:15</p> <p>21 ask which ones he thinks would affect</p> <p>22 their ability to get another job.</p> <p>23 MR. CONNOLLY: I will allow</p> <p>24 general questions, general questions. We</p> <p>25 are not going through the blogs piece by 11:49:41</p>	<p style="text-align: right;">Page 889</p> <p>1 Hesse</p> <p>2 examination he certainly could have.</p> <p>3 MR. GOODSTADT: That is just not</p> <p>4 true.</p> <p>5 MR. NOVIKOFF: I am just 11:50:44</p> <p>6 objecting. I can't tell you not to do</p> <p>7 anything.</p> <p>8 MR. GOODSTADT: We had these</p> <p>9 discussions off the record about the</p> <p>10 positions on that. That is not true. 11:50:52</p> <p>11 MR. NOVIKOFF: Judge Boyle has</p> <p>12 issued whatever he has issued in terms of</p> <p>13 the amount of the deposition. Mr.</p> <p>14 Goodstadt has taken those ten hours. My</p> <p>15 position is that is all he was entitled 11:51:05</p> <p>16 to. But Mr. Hesse is not my witness so I</p> <p>17 can't, other than killing trees with my</p> <p>18 speech, I can't do anything about it.</p> <p>19 So it is between Kevin and Mr.</p> <p>20 Goodstadt to decide what they want to do 11:51:21</p> <p>21 with this, and that will be the last that</p> <p>22 I speak on this issue.</p> <p>23 MR. GOODSTADT: Certainly this</p> <p>24 question about directly contradicting</p> <p>25 testimony that he has already given, you 11:51:38</p>
<p style="text-align: right;">Page 888</p> <p>1 Hesse</p> <p>2 piece.</p> <p>3 MR. GOODSTADT: I don't see why</p> <p>4 not, I mean the door is open.</p> <p>5 MR. CONNOLLY: I disagree with 11:49:41</p> <p>6 that. I disagree that -- I still have</p> <p>7 problems with the fact that you believe</p> <p>8 the door was opened, I don't think it</p> <p>9 was.</p> <p>10 MR. GOODSTADT: I want to ask 11:49:54</p> <p>11 questions and see how open the door is.</p> <p>12 MR. NOVIKOFF: I don't know if a</p> <p>13 codefendant asks the question of another</p> <p>14 party, how that opens the door, presuming</p> <p>15 that is even appropriate in a deposition, 11:50:10</p> <p>16 to you asking questions of that witness.</p> <p>17 I can see if Mr. Connolly asked Mr. Hesse</p> <p>18 some questions that opened the door, but</p> <p>19 merely because I asked questions, Hesse</p> <p>20 is not my witness. 11:50:23</p> <p>21 I object to the fact that anything</p> <p>22 beyond ten hours is being used. I think</p> <p>23 the Judge Boyle was specific, he asked</p> <p>24 ten hours. If Mr. Goodstadt wants to</p> <p>25 reserve some time to engage in redirect 11:50:35</p>	<p style="text-align: right;">Page 890</p> <p>1 Hesse</p> <p>2 can let me ask with respect to that, and</p> <p>3 then when we get to the other questions</p> <p>4 we can narrow them down.</p> <p>5 MR. CONNOLLY: And it is your 11:51:52</p> <p>6 position that it contradicts what?</p> <p>7 MR. GOODSTADT: His testimony that</p> <p>8 the reason why they didn't get other</p> <p>9 statements was because they were not</p> <p>10 aggressive enough. Here it says nobody 11:52:30</p> <p>11 wants to speak to you because everybody</p> <p>12 hates you.</p> <p>13 MR. CONNOLLY: I don't think that</p> <p>14 was his testimony. I thought or I</p> <p>15 believe his testimony was something to 11:52:41</p> <p>16 the effect that he believes they were not</p> <p>17 aggressive as they could have been in</p> <p>18 getting statements. But I don't see what</p> <p>19 is contained in the blog as a</p> <p>20 contradiction to that statement. 11:53:01</p> <p>21 MR. GOODSTADT: Because it says do</p> <p>22 you ever wonder why no one would talk to</p> <p>23 you guys during your shitty</p> <p>24 investigation. The next sentence doesn't</p> <p>25 say because you were not aggressive 11:53:13</p>

Page 891

1 Hesse
2 enough, it says everybody hates you.
3 Everyone knew that you were a rat.
4 That is why I think it contradicts
5 it. 11:53:23
6 MR. CONNOLLY: I don't think it
7 contradicts it. If you want to ask him
8 if he ever said something that he thought
9 contradicted their not being possibly
10 aggressive enough in obtaining 11:53:41
11 statements.
12 MR. GOODSTADT: I am not sure I
13 understand what you are suggesting.
14 MR. CONNOLLY: You can ask him if
15 he -- I am not seeing the contradiction. 11:53:55
16 MR. GOODSTADT: I believe it is a
17 contradiction. Definitely obviously
18 relates to the same issue that was asked.
19 Asked by Mr. Novikoff, it was not asked
20 by me originally. 11:54:21
21 MR. CONNOLLY: What was the item
22 asked?
23 MR. GOODSTADT: The question was
24 about his viewpoint on their
25 investigation, and he said they did not 11:54:27

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1 Hesse
2 do a good investigation, and he thought
3 that Frank Fiorillo was not aggressive
4 enough in obtaining witness statements.
5 Here he is asking did you ever 11:54:36
6 wonder why no one would talk to you guys.
7 It has nothing to do with doing their
8 investigation. His response isn't
9 because you were not aggressive enough,
10 his response is everyone hates you. 11:54:50
11 Everyone knew then that you were a rat.
12 MR. CONNOLLY: But they are not
13 contradictory and not mutually exclusive.
14 I am not following.
15 MR. GOODSTADT: I want to know 11:55:01
16 what he meant by that.
17 MR. CONNOLLY: Well if it is not a
18 contradiction I feel you are not entitled
19 to ask it.
20 MR. GOODSTADT: Well even if it is 11:55:08
21 not a contradiction, it opens the door.
22 Let's go off the record now.
23 THE VIDEOGRAPHER: The time is
24 11:36, we are off the record.
25 (Recess taken.) 11:55:22

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1 Hesse
2 THE VIDEOGRAPHER: The time is
3 12:26, we are on the record.
4 Q. Mr. Hesse, at the last date of
5 deposition you testified in response to one of 12:25:15
6 Mr. Novikoff's questions that you had not done
7 or taken any steps in furtherance of your
8 threat that plaintiffs law enforcement careers
9 would be over, do you recall that testimony?
10 A. Yes. 12:25:29
11 Q. You also I believe testified to
12 and subsequently submitted some response to
13 interrogatories regarding some blog posts you
14 made, do you recall that?
15 A. Yes. 12:25:41
16 Q. You would agree with me, would you
17 not, that the blog post that you admitted to
18 posting contained some derogatory statements
19 about the plaintiffs in this case?
20 MR. CONNOLLY: Objection. You can 12:25:55
21 answer.
22 A. Yes.
23 Q. Would you agree with me that
24 posting the derogatory statements that you
25 made about the plaintiffs in this case on the 12:26:07

Page 894

1 Hesse
2 blog given the form that it is in would
3 negatively impact their careers in law
4 enforcement?
5 MR. CONNOLLY: Objection. 12:26:20
6 MR. NOVIKOFF: Objection.
7 A. No.
8 Q. Why not?
9 MR. CONNOLLY: Objection.
10 A. Because to tell you the truth to 12:26:24
11 me this is a fantasy this blog. I have been
12 in law enforcement 16 years, I have never seen
13 this blog until somebody told me somebody
14 wrote something about me. So why would
15 anybody read this garbage. 12:26:40
16 Q. Well why would you post it if you
17 didn't intend people to read it?
18 A. Maybe I was venting some
19 frustration.
20 Q. Have you ever spoken with anybody 12:26:49
21 outside of Ocean Beach about the blog?
22 A. No.
23 MR. CONNOLLY: Note my objection.
24 A. Actually yes, I am sorry.
25 Q. Who have you spoken with? 12:27:04

23 (Pages 891 to 894)

Page 895

1 Hesse
2 A. Somebody from the Fire Island
3 Ferry Company advised me that this blog was
4 there, and that I should read it.
5 **Q. Who from the Fire Island Ferry 12:27:13**
6 **Company?**
7 A. George Haffele, he was the vice
8 president of the Ferry Company at the time.
9 H-A-F-F-E-L-E, something like that.
10 **Q. Mr. Haffele is the vice president 12:27:29**
11 **of the Ferry Company. Is that the ferry that**
12 **takes the people back and forth to Fire**
13 **Island?**
14 A. Yes.
15 **Q. Have you spoken to anybody else 12:27:43**
16 **outside of Fire Island other than Mr. Haffele**
17 **about the blog?**
18 A. No.
19 **Q. What was your intention in posting**
20 **the negative statements about the plaintiffs 12:27:55**
21 **in this matter?**
22 MR. NOVIKOFF: Objection.
23 MR. CONNOLLY: Objection.
24 A. Well, these were posts directed at
25 other posts, maybe just to upset them a little 12:28:04

Page 896

1 Hesse
2 bit.
3 **Q. What do you mean by that, by**
4 **either one, posts directed at other posts,**
5 **what did you mean by that? 12:28:14**
6 A. Well most of these posts are
7 directed at posts that were previously made.
8 **Q. What did you mean to upset them?**
9 A. The plaintiffs.
10 **Q. Would you agree with me that if 12:28:22**
11 **another chief or a person of seniority in**
12 **another police department were to read the**
13 **negative statements that you made about my**
14 **clients that it could affect their decision on**
15 **whether to hire one of my clients? 12:28:42**
16 MR. NOVIKOFF: Objection.
17 MR. CONNOLLY: Objection.
18 A. To think of what somebody else
19 might think; I couldn't speculate.
20 **Q. So you have no opinion one way or 12:28:50**
21 **the other?**
22 MR. CONNOLLY: Objection.
23 A. No.
24 **Q. Who within the department have you**
25 **spoken with about the blogs? 12:29:10**

Page 897

1 Hesse
2 A. Specifically John Cherry and I
3 recently have spoken about it.
4 **Q. Anybody else?**
5 A. No, not really. 12:29:25
6 **Q. You said that it was in response**
7 **to other posts, do you recall that?**
8 A. Yes.
9 **Q. Do you have any evidence or**
10 **information that any posts in the blog was 12:29:35**
11 **posted by any of the plaintiffs in this**
12 **matter?**
13 MR. CONNOLLY: Other than the
14 contents of the blog; I am not quite sure
15 I understand the question. 12:29:48
16 **Q. Well any contents of the blog?**
17 A. Do I have prove?
18 **Q. Any evidence, information, proof**
19 **or the like that any of the plaintiffs posted**
20 **on the blog? 12:29:59**
21 A. I have no proof.
22 **Q. I don't want to be narrowly**
23 **tailored just to the word proof because I**
24 **think that that has a sort of legal term. I**
25 **want to know if you have any evidence or other 12:30:12**

Page 898

1 Hesse
2 **information that would lead you to conclude**
3 **that the plaintiffs posted -- any of the**
4 **plaintiffs posted on the blog?**
5 A. Well the only one that I know for 12:30:21
6 sure is the one that Tommy Snyder wrote
7 because he identified himself. Other than
8 that no.
9 **Q. I want to go back to some of the**
10 **statements that you made -- strike that. 12:30:47**
11 **When you said, I believe you**
12 **called it a fantasy, is that what you called**
13 **the blog?**
14 A. Yes.
15 **Q. Who did you understand would be 12:30:58**
16 **reading the blog?**
17 MR. CONNOLLY: Objection.
18 MR. NOVIKOFF: Objection.
19 A. I don't know. I could probably
20 speculate that members of the Ocean Beach 12:31:05
21 Police Department and the plaintiffs.
22 **Q. Anybody else?**
23 A. I don't know.
24 **Q. It is publicly available the blog;**
25 **is that correct? 12:31:15**

24 (Pages 895 to 898)

Page 899

1 Hesse
 2 A. Sure.
 3 **Q. Did you ever discuss the blog with**
 4 **any residents of Ocean Beach?**
 5 A. No. 12:31:20
 6 **Q. I just want to go back again to**
 7 **some of the statements that you made in**
 8 **response to Mr. Novikoff's questions about the**
 9 **reasons why you selected the plaintiffs for**
 10 **termination. 12:31:39**
 11 **I believe you testified that you**
 12 **selected Nofi in part because he approached**
 13 **people inappropriately?**
 14 A. That was part of it, yes.
 15 **Q. Did you ever write him up for 12:31:51**
 16 **that?**
 17 A. No.
 18 **Q. Did you ever speak with Chief**
 19 **Paradiso about that?**
 20 A. I don't recall. 12:31:56
 21 **Q. Did you ever suggest to Chief**
 22 **Paradiso that Joe Nofi should be terminated**
 23 **for the way he approached people?**
 24 A. You know I don't recall.
 25 **Q. Is there anything that you could 12:32:05**

Page 900

1 Hesse
 2 **think of that would refresh your recollection?**
 3 A. No.
 4 **Q. Did you ever discipline Nofi for**
 5 **doing that, for inappropriately approaching 12:32:16**
 6 **people?**
 7 A. Verbally.
 8 **Q. How many times?**
 9 A. I don't know.
 10 **Q. Was anyone else present? 12:32:24**
 11 A. Not that I am aware of, no.
 12 **Q. Why didn't you write him up for**
 13 **it?**
 14 MR. CONNOLLY: Objection.
 15 A. I didn't think he needed to be 12:32:30
 16 written up.
 17 **Q. You didn't think it was to a level**
 18 **that needed to be written up.**
 19 MR. CONNOLLY: Objection.
 20 A. No. 12:32:37
 21 **Q. I believe that you said one of the**
 22 **reasons why you selected Mr. Carter for**
 23 **termination was that he was hidy tidy, do you**
 24 **recall using that phrase?**
 25 A. Hidy tidy; no, I don't remember 12:32:47

Page 901

1 Hesse
 2 using that phrase.
 3 **Q. Do you know what that phrase**
 4 **means, hidy tidy?**
 5 A. I have no idea. 12:32:59
 6 **Q. Did you ever personally witness Ed**
 7 **Carter sleeping?**
 8 A. Yes.
 9 **Q. While he was not on break and**
 10 **being paid? 12:33:07**
 11 A. Yes.
 12 **Q. How many times?**
 13 A. Repeat that, on break or --
 14 **Q. Not on break and being paid?**
 15 A. And being paid, yes. 12:33:14
 16 **Q. How many times?**
 17 A. I don't recall how many times.
 18 **Q. Did you ever discuss it with the**
 19 **chief, meaning Chief Paradiso?**
 20 A. I don't recall if I did or not. 12:33:23
 21 **Q. Is there anything that you can**
 22 **think of that would refresh your recollection?**
 23 A. No.
 24 **Q. Did you ever discuss it or address**
 25 **this issue with any members of the board of 12:33:30**

Page 902

1 Hesse
 2 **trustees of Ocean Beach?**
 3 A. No.
 4 **Q. Did you ever discuss it with the**
 5 **mayor, either the current mayor or any former 12:33:36**
 6 **mayor of Ocean Beach the issue that you saw Ed**
 7 **Carter sleeping?**
 8 A. No.
 9 **Q. Did you dock Mr. Carter pay for**
 10 **the time that he was allegedly sleeping on 12:33:46**
 11 **duty?**
 12 A. No.
 13 **Q. I believe you testified that the**
 14 **reason why you selected Snyder for termination**
 15 **was, you mentioned something about personal 12:34:03**
 16 **issues and that he got sick and he had some**
 17 **money issues, and at the end of his employment**
 18 **he was angry. Do you recall saying that?**
 19 A. Yes.
 20 **Q. What did you mean by that? 12:34:14**
 21 A. He was not getting along with
 22 members of the Police Department. There were
 23 problems between them. And just the general
 24 notion of the public, just dealings with them.
 25 His attitude was just not right or conducive 12:34:29

25 (Pages 899 to 902)

Page 903

1 Hesse
2 to the community that we worked for.
3 **Q. Did you ever receive any**
4 **complaints from any members of the public**
5 **about Mr. Snyder? 12:34:39**
6 A. Yes.
7 **Q. How many times?**
8 A. I don't know, I don't recall.
9 **Q. Did you receive it in writing?**
10 A. No. 12:34:43
11 **Q. Verbally?**
12 A. Yes.
13 **Q. Anybody else there when you**
14 **received complaints about Mr. Snyder verbally?**
15 A. I don't know. 12:34:49
16 **Q. Who complained about Mr. Snyder?**
17 A. I don't remember names.
18 **Q. When did you receive those**
19 **complaints?**
20 A. I guess towards the end of 2005 12:34:54
21 specifically.
22 **Q. Do you recall when in 2005?**
23 A. Maybe in the month of August.
24 **Q. What were the complaints?**
25 A. Just, you know, one guy in 12:35:05

Page 904

1 Hesse
2 particular he came up to me and said that --
3 he didn't know the officer's names, but he
4 described Snyder and Fiorillo specifically,
5 and he said, you know, I am walking down the 12:35:19
6 street and it was late, it was dark, and I
7 came around a bush, the two cops were standing
8 there. He said they, in his words, they
9 attacked him because they thought that he was
10 urinating in a bush. 12:35:37
11 Meanwhile he was just walking
12 around the corner and that they roused him,
13 they threw him in the bushes. I don't even
14 remember his name, but I asked him do you want
15 to put it in writing. He stated no, and that 12:35:51
16 was it. I didn't even bring it to their
17 attention at the time.
18 **Q. So just let me understand this. A**
19 **civilian claimed that he was roughed up,**
20 **attacked, thrown in the bushes by Mr. Snyder 12:36:05**
21 **and Mr. Fiorillo, and you didn't even address**
22 **it with them; is that correct?**
23 MR. CONNOLLY: Objection.
24 A. Yes. Correct.
25 **Q. Did you speak to Chief Paradiso 12:36:14**

Page 905

1 Hesse
2 **about it?**
3 A. I don't recall if I did or not.
4 **Q. Did you take any notes of your**
5 **conversation with the civilian who came in to 12:36:22**
6 **make the complaint?**
7 A. No, he didn't want to put it in
8 writing, he said no.
9 **Q. I am asking whether you put it in**
10 **writing? 12:36:31**
11 A. No.
12 **Q. I assume you didn't address it**
13 **with Snyder and Fiorillo; you took no steps to**
14 **discipline them?**
15 A. No. 12:36:38
16 **Q. Any other complaints about Snyder**
17 **from members of the public?**
18 A. Not that I specifically recall.
19 **Q. And is there anything that you**
20 **could think of that would refresh your 12:36:48**
21 **recollection?**
22 A. No, just my observations.
23 **Q. Did you ever receive anything in**
24 **writing from -- anything negative about Snyder**
25 **from anybody in the public? 12:36:59**

Page 906

1 Hesse
2 A. I don't recall. I don't know if
3 anything is in his file.
4 **Q. Which police officers was he not**
5 **getting along with? 12:37:04**
6 A. I believe there was -- well, let's
7 see. There would be Ty Bacon. There would be
8 Rich Bosetti, Gary Bosetti, Walter Muller. I
9 believe Paul Carollo had some issues with him.
10 I don't know about any others right now. 12:37:20
11 **Q. Do you know why they were not**
12 **getting along?**
13 MR. CONNOLLY: Objection.
14 A. Specifically no, not really.
15 **Q. Generally? 12:37:38**
16 A. Generally no.
17 **Q. Did it have anything to do with**
18 **the Halloween incident?**
19 A. It could.
20 **Q. You don't know one way or the 12:37:43**
21 **other?**
22 A. No.
23 **Q. Now going back to, I believe you**
24 **mentioned Walter Muller. Is Mr. Muller a**
25 **friend of yours? 12:37:59**

26 (Pages 903 to 906)

Page 907

1 Hesse
 2 A. Yes, we are friends.
 3 **Q. Did you ever travel with**
 4 **Mr. Muller?**
 5 A. Sure. 12:38:03
 6 **Q. Did you ever go fishing together?**
 7 A. Yes.
 8 **Q. Did you ever go out socially with**
 9 **the families?**
 10 A. Yes. 12:38:10
 11 **Q. And I want to go back to the**
 12 **incident with Dr. Guida that you testified to**
 13 **before. You testified after the incident you**
 14 **yelled at the group of officers; is that**
 15 **correct?** 12:38:27
 16 A. Yes.
 17 **Q. Who was in that group?**
 18 A. Lappena which was a dock master.
 19 Fiorillo. I can't think of his name, Matt
 20 O'Malley who happens to be a Suffolk County 12:38:40
 21 police officer. I don't remember who else was
 22 there.
 23 **Q. Why did you yell at them?**
 24 A. I just didn't like the way the
 25 call went and the actions that they took. I 12:38:59

Page 908

1 Hesse
 2 think they should have been a little more
 3 aware of what was going on around them before
 4 they just jumped into a melee.
 5 **Q. Do you recall what you said to** 12:39:09
 6 **them about that?**
 7 A. Specifically no.
 8 **Q. Did you write anyone up for the**
 9 **incident?**
 10 A. No. 12:39:15
 11 **Q. You didn't write up Kenny Lappena?**
 12 A. No.
 13 **Q. Did you ever ask Frank Fiorillo**
 14 **why he put Muller in a head lock if it was**
 15 **somebody else who punched their girlfriend?** 12:39:25
 16 A. You got to ask the question again.
 17 **Q. The question is did you ever ask**
 18 **Frank Fiorillo why he would put Walter Muller**
 19 **in a head lock if it was Dr. Guida who punched**
 20 **his own girlfriend?** 12:39:41
 21 A. I don't really recall.
 22 **Q. You don't recall asking him?**
 23 A. I just don't recall, no.
 24 **Q. Do you know why he did that?**
 25 MR. CONNOLLY: Objection. 12:39:50

Page 909

1 Hesse
 2 A. At this time right now I don't
 3 remember.
 4 **Q. Fiorillo ever tell you that it was**
 5 **Muller who struck somebody?** 12:39:54
 6 A. No. Not until this.
 7 **Q. Did you write up Fiorillo for**
 8 **putting Walter Muller in a head lock?**
 9 A. No.
 10 **Q. I believe you testified that** 12:40:07
 11 **Muller was not intoxicated, did you testify to**
 12 **that?**
 13 MR. CONNOLLY: Objection.
 14 A. I don't know either way if I did
 15 or not. 12:40:16
 16 **Q. Do you whether he was intoxicated?**
 17 A. I don't believe he was.
 18 **Q. Did you take a breathalyzer?**
 19 A. No.
 20 **Q. Did you ask him if he was** 12:40:23
 21 **intoxicated?**
 22 A. No.
 23 **Q. If Fiorillo actually witnessed**
 24 **Muller punch his girlfriend or was told that**
 25 **Muller had punched his girlfriend, would it be** 12:40:36

Page 910

1 Hesse
 2 **improper for Fiorillo to put him in a head**
 3 **lock to restrain him?**
 4 MR. CONNOLLY: Objection.
 5 A. Just based on somebody telling 12:40:43
 6 him, no.
 7 **Q. How about if he witnessed it?**
 8 A. Not necessarily.
 9 **Q. Would it be necessarily improper**
 10 **for him to do it?** 12:40:53
 11 A. Well you got to give me better
 12 circumstances than just punching his
 13 girlfriend. Was there a previous punch, was
 14 it after the fact, was it happening at that
 15 time. You are speculating on a lot of things 12:41:02
 16 here, I don't know.
 17 **Q. I want to know if it -- if it**
 18 **would ever be improper -- well strike that.**
 19 **Would it ever be proper for Fiorillo to put**
 20 **somebody in a head lock that he had seen punch** 12:41:15
 21 **his girlfriend?**
 22 MR. NOVIKOFF: Objection.
 23 MR. CONNOLLY: Objection.
 24 A. If it was a way of restraining him
 25 I guess it would be proper. 12:41:25

27 (Pages 907 to 910)

Page 911

1 Hesse
2 **Q. Does it matter whether Muller was**
3 **an officer or wasn't an officer if the level**
4 **of altercation required him to restrain the**
5 **person? 12:41:37**
6 A. I don't think it would have
7 mattered, no.
8 **Q. Just so I am clear, it was not the**
9 **fact that Muller was an officer that you were**
10 **upset with Fiorillo, was it? 12:41:50**
11 MR. CONNOLLY: Objection.
12 A. I never said I was upset with
13 Fiorillo.
14 **Q. You were upset with the way --**
15 A. It was a general with all of them 12:42:02
16 jumping into a melee that was going on on the
17 boat. And it really was directed at the
18 civilian employee, the dock master Kenny
19 Lappena, who happened to get hurt, and that is
20 why I yelled at them as a group. 12:42:15
21 **Q. So sitting here today do you know**
22 **why Fiorillo put Muller in a head lock?**
23 MR. CONNOLLY: Objection.
24 A. I don't recall right now, no.
25 **Q. You testified in response to a 12:42:29**

Page 912

1 Hesse
2 **question that Mr. Novikoff asked you about**
3 **whether Frank Fiorillo -- whether you ever**
4 **directed Frank Fiorillo to drive you to a**
5 **residence for a non-police business. Do you 12:42:46**
6 **recall that?**
7 A. Yes.
8 **Q. You testified that you never**
9 **instructed him to do that; correct?**
10 A. No. 12:42:55
11 **Q. Did he ever actually drive you to**
12 **a residence for a non-police business?**
13 MR. CONNOLLY: Objection.
14 A. He may have.
15 **Q. Well the question before was he 12:43:02**
16 **never instructed him, the question is now**
17 **whether he actually drove him?**
18 A. He may have, I don't recall him
19 ever driving me anywhere.
20 **Q. Do you recall him ever picking you 12:43:12**
21 **up from a residence for non-police business?**
22 A. No.
23 **Q. You testified before about an**
24 **incident where you went up to the apartment**
25 **that there was the beer pouring incident, do 12:43:27**

Page 913

1 Hesse
2 **you recall that?**
3 A. Yes.
4 **Q. You testified that you found a**
5 **pipe -- you found a pipe used for smoking 12:43:32**
6 **marijuana, do you recall that?**
7 A. Yes.
8 **Q. Do you know whose pipe it was?**
9 A. No.
10 **Q. Did you attempt to find out whose 12:43:41**
11 **pipe it was?**
12 A. I asked.
13 **Q. Did you check to see if there was**
14 **any marijuana in the pipe?**
15 A. Yes. 12:43:51
16 **Q. Was there any marijuana in the**
17 **pipe?**
18 A. No.
19 **Q. Was there any remnants of**
20 **marijuana in the pipe? 12:43:54**
21 A. It looked like something was
22 smoked out of it -- no.
23 **Q. That give you probable cause to**
24 **search to see if there was drugs in the**
25 **apartment? 12:44:07**

Page 914

1 Hesse
2 A. I didn't feel there was enough.
3 **Q. Did you search to see if there was**
4 **any drugs in the apartment?**
5 A. No. 12:44:12
6 **Q. Why would you throw a marijuana**
7 **pipe into the bay as opposed to taking it back**
8 **to the police station?**
9 A. Because if I took it back to the
10 police station it would be just sitting around 12:44:22
11 until I could dispose of it. It was easier to
12 just show the kid that I took it and threw it
13 into the bay so he could no longer using.
14 **Q. What kid?**
15 A. I suspected it was this kid John 12:44:35
16 that I wrote a summons to.
17 **Q. Did you write him a summons for**
18 **possessing drug paraphernalia?**
19 MR. NOVIKOFF: Objection.
20 A. No. 12:44:50
21 **Q. Did you record the incident**
22 **anywhere in writing?**
23 MR. NOVIKOFF: Objection. What
24 incident?
25 **Q. The fact that you found a 12:44:55**

28 (Pages 911 to 914)

Page 915

1 Hesse
2 marijuana pipe and anything you may have done
3 with it?
4 A. No, I don't believe so.
5 Q. Why not? 12:45:01
6 A. I didn't think it was necessary.
7 MR. CONNOLLY: Objection.
8 A. You could buy those on any street
9 corner.
10 Q. But this one wasn't a brand new 12:45:14
11 one bought on the street corner, you said
12 there was evidence that marijuana was smoked
13 in it; correct?
14 A. I didn't say marijuana, I said
15 anything. 12:45:23
16 Q. Something?
17 A. Yes.
18 Q. Did you smell it?
19 A. I smelled it.
20 Q. What did it smell like? 12:45:27
21 A. Burned ash.
22 Q. Marijuana ash or cigarette ash?
23 A. Not specifically that I remember.
24 Q. Do you know what marijuana smells
25 like? 12:45:35

Page 916

1 Hesse
2 A. Oh yeah.
3 Q. Did you ever keep any drugs or
4 drug paraphernalia in your drawer?
5 A. Oh yeah. 12:45:45
6 MR. CONNOLLY: Objection.
7 Q. Did you lock that drawer every
8 time -- was that drawer always locked?
9 MR. CONNOLLY: Objection.
10 A. No. 12:45:53
11 Q. Why would you leave drugs or drug
12 paraphernalia in your drawer?
13 A. That is the only place that we had
14 to store it.
15 Q. Did you have an evidence box that 12:46:01
16 was locked?
17 A. We had a safe, 50/50 chance to get
18 in it. It was already overwhelmed with drugs.
19 Q. What do you mean by 50/50
20 channels? 12:46:15
21 A. The thing is probably from the
22 1940s and when you turned the dial it doesn't
23 always set right.
24 Q. So you may not be able to get into
25 it? 12:46:25

Page 917

1 Hesse
2 A. Right.
3 Q. Just so I am clear, you left drugs
4 or strike that -- you left drugs in your
5 drawer unsecured? 12:46:33
6 MR. CONNOLLY: Objection.
7 A. It was in the confines of the
8 Police Department, yes.
9 Q. But it was not locked?
10 A. It was not locked. We didn't have 12:46:38
11 locking cabinets at the time.
12 Q. You left drug paraphernalia in the
13 drawer as well?
14 A. Yes, it was all in an evidence bag
15 sealed in my drawer. 12:46:48
16 Q. I want to go back to one other
17 question, well a couple of questions, with
18 respect to the incident where Paul Conway was
19 delivering the beer, do you recall that?
20 A. Yes. 12:47:04
21 Q. Is there a certain age minimum to
22 deliver beer or to sell beer?
23 MR. NOVIKOFF: Objection.
24 MR. CONNOLLY: Objection.
25 Q. I will break it down. 12:47:11

Page 918

1 Hesse
2 Is there an age minimum to deliver
3 beer?
4 MR. NOVIKOFF: Objection.
5 A. I don't believe there is an age 12:47:17
6 requirement for the delivery. But to sell is
7 like a bartender or waiter or waitress I
8 believe you have to be 18.
9 Q. And Paul Conway was 20?
10 A. I believe he was 20 at the time, 12:47:31
11 yes.
12 Q. And then there was some testimony
13 about the fact that you did not instruct any
14 of the plaintiffs not to issue citations to
15 minors, do you recall that? 12:47:48
16 A. Yes.
17 Q. If you were to instruct an officer
18 not to issue citation for minors, would you be
19 violating any laws?
20 MR. CONNOLLY: Objection. 12:47:59
21 MR. NOVIKOFF: Objection.
22 MR. CONNOLLY: Hypothetical.
23 Q. Yes.
24 A. I don't think I would be violating
25 any laws. I think it would be an immoral 12:48:07

29 (Pages 915 to 918)

Page 919

1 Hesse
2 order.
3 **Q. Do you recall an incident in 2005**
4 **when Ed Carter brought a minor into the police**
5 **station who he wanted to issue a summons to 12:48:39**
6 **who was served alcohol at CJ's?**
7 A. No.
8 **Q. Do you recall an incident where**
9 **Carter wanted to issue CJ's a citation for**
10 **serving alcohol to a minor in the fall of 12:48:59**
11 **2005?**
12 A. No.
13 **Q. Who owns McGuire's?**
14 MR. GOODSTADT: At which juncture?
15 **Q. In 2005? 12:49:14**
16 A. 2005, I think there is a couple of
17 owners, Jimmy something.
18 **Q. Jimmy Betts?**
19 A. Yes.
20 **Q. Let's focus on Jimmy Betts -- 12:49:23**
21 MR. NOVIKOFF: Can I ask one
22 question. I don't recall ever talking to
23 him about McGuire's or anything involving
24 McGuire's.
25 MR. GOODSTADT: Well you talked to 12:49:34

Page 920

1 Hesse
2 him about instructing officers not to
3 issue summons when --
4 MR. NOVIKOFF: Fine.
5 Notwithstanding my overall objection. 12:49:41
6 MR. GOODSTADT: Okay.
7 **Q. Jimmy Betts was the owner of**
8 **McGuire's in 2005?**
9 A. I believe in 2005.
10 **Q. Do you recall an incident in the 12:49:53**
11 **summer of 2005 where Carter wanted to issue**
12 **Mr. Betts a summons for writing his bicycle**
13 **after hours without a light?**
14 A. Do I recall that?
15 MR. NOVIKOFF: Objection. That is 12:50:07
16 kind of what I am objecting to starting
17 the question off do you recall. If he
18 answers no it can go both ways whether he
19 didn't recall it or it never happened.
20 So I object to the form of the question. 12:50:22
21 **Q. Would it be -- in the summer of**
22 **2005 I know you said there were some changes**
23 **in the rules with respect to the silly bicycle**
24 **riding rules. In the summer of 2005 was there**
25 **an ordinance where if somebody was riding a 12:50:38**

Page 921

1 Hesse
2 **bicycle after hours they needed a light?**
3 MR. NOVIKOFF: Objection.
4 A. Yes, when it was dark out.
5 MR. CONNOLLY: Assuming an 12:50:47
6 operating light.
7 MR. GOODSTADT: Yes.
8 A. Flashlight.
9 **Q. They could have a flashlight?**
10 A. It has to be in a holder. 12:50:54
11 **Q. Just going back to the question**
12 **that Mr. Novikoff objected to. In response to**
13 **Mr. Novikoff's objection I just want to**
14 **rephrase a question.**
15 **Did there come a point in time in 12:51:42**
16 **the summer of 2005 where Ed Carter wanted to**
17 **issue a summons to Jimmy Betts for riding his**
18 **bicycle after hours without a light?**
19 MR. CONNOLLY: Objection.
20 A. No. 12:51:57
21 **Q. It didn't happen?**
22 A. I don't think so.
23 **Q. Is it possible that it happened**
24 **and you don't recall it?**
25 MR. CONNOLLY: Objection. 12:52:03

Page 922

1 Hesse
2 A. I don't think so.
3 **Q. It is not possible?**
4 A. No, it didn't happen.
5 **Q. Did you ever accompany Ed Carter 12:52:14**
6 **to an apartment on Bay Walk and Ocean Breeze,**
7 **I believe those two streets cross each other?**
8 A. Yes, they do, they intersect.
9 **Q. Do you recall accompanying**
10 **Mr. Carter to an apartment on that corner 12:52:34**
11 **where there were under age drinkers?**
12 MR. CONNOLLY: Objection.
13 A. No.
14 **Q. So you don't recall ever being in**
15 **that apartment with Mr. Carter? 12:52:46**
16 A. No.
17 **Q. Just go back to the incident with**
18 **the beer spilling, do you recall that**
19 **incident?**
20 A. Yes. 12:53:10
21 **Q. Who did you say the leaseholder**
22 **was?**
23 A. I didn't.
24 **Q. Do you know who the leaseholder**
25 **was on the apartment? 12:53:17**

30 (Pages 919 to 922)

Page 923

1 Hesse
2 A. The leaseholder, no.
3 **Q. Do you know who the owner of the**
4 **apartment is?**
5 A. The owner of the building. 12:53:21
6 **Q. Yes.**
7 A. Billy Svingos.
8 **Q. He was the owner in 2003, 2004,**
9 **and 2005?**
10 A. Yes. 12:53:30
11 **Q. I thought you mentioned a John who**
12 **was a leaseholder?**
13 MR. CONNOLLY: He didn't use the
14 phrase leaseholder. I think the record
15 would correct me if I am mistaken, 12:53:37
16 renter.
17 **Q. Is it possible that there was a**
18 **renter named John up there?**
19 A. I believe he was one of the
20 renters. I believe it was a group of them. 12:53:48
21 **Q. So it was like a share house?**
22 A. Something like that, yes.
23 **Q. So just so I understand, one**
24 **leaseholder and the leaseholder would sell out**
25 **shares to other renters; is that how it works? 12:53:56**

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1 Hesse
2 MR. CONNOLLY: Objection.
3 A. Yes, kind of how it works.
4 **Q. This guy John, he was one of the**
5 **renters? 12:54:04**
6 A. I believe he was, yes.
7 **Q. What summons did you write?**
8 A. I believe it was for noise. Noise
9 violation.
10 **Q. So you didn't write any kind of 12:54:11**
11 **summons with respect to spilling alcohol on**
12 **the officers?**
13 A. No.
14 MR. CONNOLLY: Objection.
15 **Q. You didn't write any kind of 12:54:23**
16 **summons with respect to the fact that there**
17 **was drug paraphernalia in the apartment?**
18 A. The pipe; no.
19 **Q. Who did you enter the apartment**
20 **with? 12:54:50**
21 A. Tom Snyder and Kevin Lamm.
22 **Q. Anyone else?**
23 A. I don't recall if anybody else was
24 there.
25 **Q. Ever been in that apartment with 12:54:58**

Page 925

1 Hesse
2 **Paul Carollo?**
3 A. I don't recall if I was or not.
4 **Q. Who is Jason Maldonado?**
5 A. No idea. 12:55:08
6 **Q. Do you know who Robert Steinhauser**
7 **is?**
8 A. No idea.
9 **Q. How about Brian Weinberg?**
10 A. No idea. 12:55:14
11 MR. GOODSTADT: Give me one minute
12 off the record just to review what I
13 have.
14 MR. NOVIKOFF: Go off the record.
15 THE VIDEOGRAPHER: The time is 12:55:32
16 12:57, we are off the record.
17 (Recess taken.)
18 THE VIDEOGRAPHER: The time is
19 12:58, we are on the record.
20 MR. GOODSTADT: I have nothing 12:57:16
21 further at this time.
22 EXAMINATION BY
23 MR. NOVIKOFF:
24 **Q. Mr. Hesse, I think I have no less**
25 **than three minutes worth of questions, maybe 12:57:23**

Page 926

1 Hesse
2 **more than three questions.**
3 **You mentioned in response to Mr.**
4 **Goodstadt that Mr. Snyder communicated to you**
5 **about an illegal search and seizure by Lamm, 12:57:33**
6 **do you recall that?**
7 A. Yes.
8 **Q. What did Mr. Snyder specifically**
9 **say about that?**
10 A. He said that Kevin Lamm went up 12:57:37
11 the back alley of CJ's behind the bar, came in
12 the bar door and made a statement that he was
13 going to -- he doesn't give a shit who you
14 people are, he is going to get all of you. In
15 reference to what I don't know, he went into 12:57:56
16 the kitchen, he was looking for something. He
17 went into the bathroom looking for something.
18 And Tom Snyder said that he didn't agree with
19 it. He even said something to Kevin about it.
20 **Q. So this was Snyder telling you 12:58:08**
21 **that Lamm said in words and effect I don't**
22 **give a shit who you are?**
23 A. Correct.
24 **Q. Now Mr. Goodstadt asked you a**
25 **question with regard to showing -- well, Mr. 12:58:19**

31 (Pages 923 to 926)

Page 927

1 Hesse
2 Goodstadt asked you a question and you
3 responded with regard to you showing Lamm,
4 Snyder and Fiorillo at various times the file
5 of the investigation? 12:58:35
6 A. Yes.
7 Q. I think Mr. Goodstadt would be
8 objecting based upon your non-responsiveness,
9 so let me ask you this question.
10 Did you ever show Mr. Lamm a copy 12:58:44
11 of the investigative file of the Halloween
12 incident?
13 A. Yes.
14 Q. And Mr. Lamm didn't want to look
15 at it? 12:58:51
16 A. Correct.
17 Q. At the time when you showed --
18 where did you show Lamm this?
19 A. In the police station.
20 Q. Did Lamm at the time that you 12:59:02
21 showed him make any reference to his belief
22 that you were covering up anything?
23 A. I don't remember specifically.
24 Q. With regard to you showing
25 Fiorillo the investigative file, let me ask 12:59:13

Page 928

1 Hesse
2 you this so there is no objection, did you
3 show Fiorillo the investigative file?
4 A. Yes.
5 Q. Where did you show it to him? 12:59:21
6 A. In the same exact spot actually.
7 Q. Was Mr. Fiorillo pleased or
8 displeased with regard to what he read?
9 MR. GOODSTADT: Objection.
10 A. He seemed to be very happy to read 12:59:32
11 it, and he said there was a lot of things that
12 they didn't know.
13 Q. They being whom?
14 A. The three officers.
15 Q. Let me ask you this then. What if 12:59:40
16 anything did Mr. Fiorillo say to you upon
17 subsequent to his reading of the investigative
18 file concerning the fact that he looked at the
19 file?
20 MR. GOODSTADT: Objection. 12:59:49
21 A. There was nothing derogatory other
22 than he made some statements that he didn't
23 know that certain things had transpired.
24 Q. Certain things had transpired,
25 what was he referring to? 12:59:58

Page 929

1 Hesse
2 A. Like the biggest part of Jeannie
3 Jaeger being attached by this individual.
4 Q. Now the question I have is at this
5 time when you showed Fiorillo the 13:00:06
6 investigative file and he made those comments,
7 did he make any comments to you that it was
8 his belief that you were covering up
9 something?
10 A. No. 13:00:16
11 Q. With regard to Snyder did you show
12 him the investigative file?
13 A. Yes.
14 Q. Did he review it?
15 A. Yes. 13:00:22
16 Q. Where did you show it to him?
17 A. In the police station.
18 Q. Where did he review it?
19 A. He was sitting at Chief Paradiso's
20 desk. 13:00:30
21 Q. What comment if any did he make to
22 you concerning his review of the investigative
23 file?
24 A. I don't really recall to tell you
25 the truth. 13:00:36

Page 930

1 Hesse
2 Q. Did he make any reference to
3 his -- did he make any statement that led you
4 to believe that he believed that you were
5 covering up something? 13:00:42
6 A. Absolutely not, no.
7 MR. GOODSTADT: Objection.
8 MR. NOVIKOFF: I have nothing
9 further.
10 MR. CONNOLLY: I have one 13:00:57
11 question.
12 MR. NOVIKOFF: Don't open the
13 door.
14 EXAMINATION BY
15 MR. CONNOLLY: 13:01:00
16 Q. Earlier Mr. Goodstadt had asked
17 you if you had any proof that plaintiffs or a
18 plaintiff may have made blog entries. Do you
19 recall being asked that question?
20 A. Yes. 13:01:18
21 Q. And what was your response?
22 A. I had no proof.
23 MR. GOODSTADT: Objection.
24 Q. Did you ever form a belief based
25 upon the contents of blog entries that one or 13:01:31

32 (Pages 927 to 930)

1 Hesse
2 1:09. We are off the record.
3 (Time noted: 1:10 p.m.)
4
5 _____
6 GEORGE HESSE
7
8 Subscribed and sworn to before me
9 this ____ day of _____, 2009
10 _____
11
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1
2 CERTIFICATE
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF NEW YORK)
6
7 I, Philip Rizzuti, a Notary
8 Public within and for the State of New
9 York, do hereby certify:
10 That GEORGE HESSE, the witness
11 whose deposition is hereinbefore set forth,
12 was duly sworn by me and that such
13 deposition is a true record of the
14 testimony given by the witness.
15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage, and that I am
18 in no way interested in the outcome of this
19 matter.
20 IN WITNESS WHEREOF, I have
21 hereunto set my hand this 27th day of
22 August, 2009.
23
24 PHILIP RIZZUTI
25

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1
2 ----- I N D E X -----
3 WITNESS EXAMINATION BY PAGE
4 GEORGE HESSE Mr. Novikoff 807, 925
5 Mr. Baptiste 839
6 Mr. Goodstadt 841
7 Mr. Connolly 930
8
9 ----- INFORMATION REQUESTS -----
10 DIRECTIONS: None
11 RULINGS: None
12 TO BE FURNISHED: None
13 REQUESTS: None
14 MOTIONS: None
15
16 ----- EXHIBITS -----
17 Hesse Exhibit 29, complaint, 807
18 Hesse Exhibit 30, blog posting, 883
19 P 962 to P 1265,
20
21
22
23
24
25

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1
2 *** ERRATA SHEET ***
3 NAME OF CASE: CARTER VS. OCEAN BEACH
4 DATE OF DEPOSITION: August 17, 2009
5 NAME OF WITNESS: GEORGE HESSE
6 PAGE LINE FROM TO
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 _____
22 GEORGE HESSE
23 Subscribed and sworn to before me
24 this ____ day of _____, 2009.
25 _____
(Notary Public) My Commission Expires:

34 (Pages 935 to 936)

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